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FCC Record

A comprehensive compilation of decisions, reports, public notices and other documents of the Federal Communications Commission of the United States.

FEDERAL COMMUNICATIONS COMMISSION

Dennis R. Patrick, Chairman

James H. Quello

Patricia Diaz Dennis

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Federal Communications Commission Record

Volume 3
Issue 5

Table of Contents

Table of Cases..... i

Table of FCC and Delegated Authority Numbers..... iv

Table of Docket Numbers..... vi

Table of Rulemaking Numbers..... vii

Table of Localities.....viii

Table by Subject Matter..... ix

Table by Statutory and Rule Provisions..... xii

Decisions, Reports, Memorandum Opinions, Orders, and Other Selected Material..... 948

Federal Communications Commission Record

Table of Cases
Volume 3
Issue 5

Case Name	Page
ASTRO Enterprises, Inc.	954
AT&T Communications - Custom Service Tariff Offerings	1117
AT&T Communications - Virtual Telecommunications Network Service	995
AT&T Communications-Interstate Division	1242
Advanced Television Service Meeting	1129
Amemdment of Part 2	1215
Amendment of Parts 80 and 87	1027
Amendment of Sections 64.702 (Third Computer Inquiry)	1135
Amendment to Sections 64.702 (Third Computer Inquiry)	1150
American Telephone and Telephone Co.	1063
American Teltronix	1091
Ameritech Sales Agency Waiver	1190
Annual 1988 Access Tariff Filings	1281
Bell Atlantic	1108
Bell Atlantic Telephone Companies	1108
COMSAT Refund Implementation	1128
Clarifications Regarding Revised FM Table of Allotments	1064
Closed Circuit Test - Emergency Broadcast System	961
Communications Satellite Corporation	1130
Communications Satellite Corporation	1132
Contact Communications and US West Paging, Inc.	952
Cost Support Material - 1988 Annual Access Tariffs	978
Daniels and Associates, Inc.	1193
Dant, Charles Mitchell	950
Davoust, Harry Steven	1183
Depreciation Reserve Imbalances of LECs	984
Dickens, Jr., Benjamin H.	1189
Duhamel, Sr., William F. and Helen S.	958
Emerald Coast Broadcasting	1177
FTC Communications Inc.	1037
GTE Southwest Incorporated	1043
Garcia, Armando	1065
General Telephone Company of Florida	1216
Home Box Office, Inc.	1235
Inquiry Into The Scrambling of Statellite TV Signals	1202
Inside Wiring to the Telephone Network	1120
International Message Telephone Service, Inc.	1089
Investigation of Special Access Tariffs of LECs	1119
Issues-Programs List for Public Broadcasting Licensees	1032
Izor, Russ	1048
Jonesville FM Group Limited Partnership	1094
Kile, Robert J.	1087

Case Name	Page
Klein, Milt	956
Knight Communications Corp.	1195
Land Mobile Satellite Service	1118
Lundberg, Susan	1178
Luninger-Geddes Partnership	1181
MCI Telecommunications Corp.	1090
Marsh Media, Ltd.	1039
Moser, Garland D.	1182
National Exchange Carrier Association, Inc.	1023
Orange County-Poughkeepsie Ltd Partnership	1191
Pacific Bell and Nevada Bell	1095
Pacific Telesis Sales Agency Plan	1116
Phoenix Media Corporation	1179
Posey County Broadcasting, Inc.	1075
RCA American Communications, Inc.	1184
Revisions to AT&T Communications	975
Schultz, Pepper	1200
Schwartz, Marvin G.	1073
Seven Hills Television Co.	1072
South Central Bell	1044
St. Croix Wireless Co., A Limited Partnership	1046
Table of Allotments, FM, Alma and Dublin, GA	1055
Table of Allotments, FM, Arlington, TX	964
Table of Allotments, FM, Bay City, TX	1059
Table of Allotments, FM, Brookings, SD	1016
Table of Allotments, FM, Edenton, NC	1051
Table of Allotments, FM, Estherville, IA	1025
Table of Allotments, FM, Evans, GA	971
Table of Allotments, FM, Fort Myers Villas, FL	1083
Table of Allotments, FM, Fountain and Pueblo, CO	962
Table of Allotments, FM, Gladstone, MI	967
Table of Allotments, FM, Iuka, MS	1081
Table of Allotments, FM, Key West, FL	1053
Table of Allotments, FM, Leland, NC	1079
Table of Allotments, FM, Lincoln City, OR	1012
Table of Allotments, FM, Malone and Owls Head, NY	1007
Table of Allotments, FM, Manchester, OH	1014
Table of Allotments, FM, Nebraska City, NE	1086
Table of Allotments, FM, North Bend, OR	1085
Table of Allotments, FM, Oakdale and Tioga, LA	973
Table of Allotments, FM, Ogdensburg, NY	1005
Table of Allotments, FM, Ontonagon, MI	969
Table of Allotments, FM, Ouray, CO	1018
Table of Allotments, FM, Panama City Beach, FL	1001
Table of Allotments, FM, Pine, AZ	1010
Table of Allotments, FM, Riverside, PA	1003
Table of Allotments, FM, Sheridan, AR	1020

Case Name	Page
Table of Allotments, FM, Tri-City, OR	1011
Table of Allotments, FM, Trussville, AL	1009
Table of Allotments, FM, Vero Beach, FL	1049
Table of Allotments, TV, Albuquerque, NM	1022
Table of Allotments, TV, Montrose and Scranton, PA	1061
Table of Allotments, TV, Panama City, FL	1057
Telamerica	1035
Telemarketing Communications of Greater Ohio, Inc.	1038
Thief River Radio	1198
Tri-M Communications, Ltd.	1176
Turner, Barbara Kay	1071
Turquesa Enterprises	1070
US Sprint Communications Company	1036
US West Newvector, Inc.	948
Western Union Telegraph Co.	1042
Younginger, Karen E.	1077

Table of Cases by Delegated Authority and FCC Number
Volume 3
Issue 5

Delegated Authority or FCC Number	Page	Delegated Authority or FCC Number	Page
DA 87-0992	978	DA 88-0247	1035
DA 87-1876	1281	DA 88-0248	1036
DA 88-0048	975	DA 88-0249	1037
DA 88-0170	995	DA 88-0250	1189
DA 88-0191	1132	DA 88-0251	1089
DA 88-0199	1129	DA 88-0253	1090
DA 88-0206	948	DA 88-0254	1195
DA 88-0207	950	DA 88-0261	1094
DA 88-0208	1043	DA 88-0269	1198
DA 88-0209	952	DA 88-0270	1073
DA 88-0210	1116	DA 88-0272	1075
DA 88-0211	1025	DA 88-0273	1077
DA 88-0212	962	DA 88-0275	1119
DA 88-0213	973	DA 88-0276	1038
DA 88-0214	964	DA 88-0278	1063
DA 88-0215	967	DA 88-0280	1128
DA 88-0216	969	DA 88-0281	1059
DA 88-0217	971	DA 88-0282	1061
DA 88-0218	1023	DA 88-0283	1057
DA 88-0219	1044	DA 88-0284	1055
DA 88-0220	961	DA 88-0285	1053
DA 88-0222	1117	DA 88-0286	1049
DA 88-0223	1235	DA 88-0287	1051
DA 88-0224	1118	DA 88-0295	1087
DA 88-0226	1042	DA 88-0297	1079
DA 88-0227	1001	DA 88-0298	1081
DA 88-0228	1003	DA 88-0299	1083
DA 88-0229	1005	DA 88-0300	1085
DA 88-0230	1007	DA 88-0301	1086
DA 88-0231	1009	DA 88-0302	1091
DA 88-0232	1010	DA 88-0305	1190
DA 88-0233	1022	DA 88-0306	1191
DA 88-0236	1072	DA 88-0307	1193
DA 88-0238	1130	DA 88-0310	1215
DA 88-0239	1011	DA 88-0245	1064
DA 88-0240	1012	FCC 88-0006	984
DA 88-0241	1014	FCC 88-0007	1216
DA 88-0242	1016	FCC 88-0009	1135
DA 88-0243	1018	FCC 88-0010	1150
DA 88-0244	1020	FCC 88-0011	1095

Delegated Authority or FCC Number	Page
FCC 88-0012	1108
FCC 88-0014	1242
FCC 88-0038	1120
FCC 88-0051	958
FCC 88-0052	1032
FCC 88-0054	954
FCC 88-0055	1048
FCC 88-0056	1027
FCC 88-0058	956
FCC 88-0062	1039
FCC 88-0067	1202
FCC 88-0083	1179
FCC 88-0084	1181
FCC 88-0085	1200
FCC 88-0088	1182
FCC 88-0089	1183
FCC 88-0090	1184
FCC 88D-007	1176
FCC 88D-008	1177
FCC 88R-011	1071
FCC 88R-012	1070
FCC 88R-013	1046
FCC 88R-014	1178
FCC 88R-015	1065

Federal Communications Commission Record

Table of Cases by Docket Number
Volume 3
Issue 5

Docket Number			Page
CC	Dkt.No.78 -	97	1042
CC	Dkt.No.80 -	634	1130
CC	Dkt.No.85 -	229	1135
CC	Dkt.No.85 -	229	1150
CC	Dkt.No.85 -	268	1130
CC	Dkt.No.87 -	568	995
CC	Dkt.No.88 -	57	1120
GEN	Dkt.No.84 -	1234	1118
MM	Dkt.No.83 -	1206	1200
MM	Dkt.No.83 -	1207	1200
MM	Dkt.No.84 -	36	1179
MM	Dkt.No.85 -	166	1119
MM	Dkt.No.85 -	298	1065
MM	Dkt.No.85 -	361	1181
MM	Dkt.No.86 -	284	1049
MM	Dkt.No.86 -	445	1071
MM	Dkt.No.86 -	499	1032
MM	Dkt.No.87 -	116	1009
MM	Dkt.No.87 -	185	1010
MM	Dkt.No.87 -	208	1059
MM	Dkt.No.87 -	247	1178
MM	Dkt.No.87 -	269	1046
MM	Dkt.No.87 -	290	1176
MM	Dkt.No.87 -	295	1051
MM	Dkt.No.87 -	309	1061
MM	Dkt.No.87 -	318	1011
MM	Dkt.No.87 -	320	1022
MM	Dkt.No.87 -	358	1086
MM	Dkt.No.87 -	360	1085
MM	Dkt.No.87 -	488	1177
MM	Dkt.No.87 -	518	1070
MM	Dkt.No.88 -	45	1025
MM	Dkt.No.88 -	46	962
MM	Dkt.No.88 -	47	973
MM	Dkt.No.88 -	48	964
MM	Dkt.No.88 -	49	967
MM	Dkt.No.88 -	50	969
MM	Dkt.No.88 -	51	971
MM	Dkt.No.88 -	52	1001
MM	Dkt.No.88 -	66	1007
MM	Dkt.No.88 -	67	1005
MM	Dkt.No.88 -	68	1003
MM	Dkt.No.88 -	70	1012
MM	Dkt.No.88 -	71	1014
MM	Dkt.No.88 -	72	1016
MM	Dkt.No.88 -	73	1018
MM	Dkt.No.88 -	74	1020
MM	Dkt.No.88 -	75	1057
MM	Dkt.No.88 -	76	1055
MM	Dkt.No.88 -	77	1053
MM	Dkt.No.88 -	78	1079
MM	Dkt.No.88 -	79	1081
MM	Dkt.No.88 -	80	1083
MM	Dkt.No.88 -	81	1094
MM	Dkt.No.88 -	82	1073
MM	Dkt.No.88 -	83	1077
MM	Dkt.No.88 -	84	1075
MM	Dkt.No.88 -	89	1195
MM	Dkt.No.88 -	90	1198
PR	Dkt.No.87 -	133	1027

Federal Communications Commission Record

Table of Cases by Rulemaking Number
Volume 3
Issue 5

Rulemaking Number	Page
RM - 2573	1049
RM - 5334	1057
RM - 5541	1009
RM - 5606	1010
RM - 5625	1083
RM - 5650	1059
RM - 5756	1051
RM - 5772	964
RM - 5807	1061
RM - 5825	1011
RM - 5866	967
RM - 5900	1053
RM - 5906	1022
RM - 5919	962
RM - 5929	1085
RM - 5930	1086
RM - 5941	964
RM - 5977	973
RM - 6008	1025
RM - 6032	1001
RM - 6054	1055
RM - 6058	1081
RM - 6063	1020
RM - 6076	971
RM - 6103	962
RM - 6105	969
RM - 6143	1007
RM - 6148	973
RM - 6157	1016
RM - 6163	1012
RM - 6165	1014
RM - 6178	1005
RM - 6183	1007
RM - 6185	1079
RM - 6187	1003
RM - 6244	1018

Table of Cases by City
Volume 3
Issue 5

City/State	Page	City/State	Page
Abilene, TX	1178	Malone, NY	1007
Albuquerque, NM	1022	Manchester, OH	1014
Alma, TX	1055	McKinney, TX	964
Amarillo, TX	1039	Montrose, PA	1061
Arlington, TX	964	Mount Vernon, IN	1075
Bay City, TX	1059	Nebraska City, NE	1086
Brookings, SD	1016	North Bend, OR	1085
Cheyenne, WY	958	Oakdale, LA	973
Christiansted, VI	1046	Ogdensburg, NY	1005
Citronelle, AL	1071	Ontonago, MI	969
Colorado Springs, CO	948	Ouray, CO	1018
Denver, CO	952	Owls Head, NY	1007
Destin, FL	1177	Palm City, FL	954
Dublin, TX	1055	Panama City, FL	1057
Edenton, NC	1051	Panama City Beach, FL	1001
Elkhart, TN	950	Phoenix, AZ	1072
Estherville, IA	1025	Pine, AZ	1010
Evans, GA	971	Pueblo, CO	962
Fairhaven, MA	1195	Rancho Mirage, CA	956
Fort Myers Villas, FL	1083	Rapid City, SD	958
Fountain, CO	962	Riverside, PA	1003
Ft. Myers, FL	1087	San Jacinto, CA	1073
Garden City, NY	1179	Scottsbluff, NE	958
Garfield, UT	1193	Scranton, PA	1061
Gaudalupe, CA	1065	Sheridan, AR	1020
Gladstone, MI	967	Sparks, NV	1200
Hatch, NM	1070	Colorado Springs, CO	952
Iuka, MS	1081	Thief River Falls, MN	1198
Janesville, WI	1176	Tioga, LA	973
Jonesville, LA	1094	Tri-City, OR	1011
Key West, FL	1053	Trussville, AL	1009
Leland, NC	1079	Vero Beach, FL	1049
Lincoln City, OR	1012	Washington, DC	1189
Little Rock, AK	1181	Webster, NY	1077

Federal Communications Commission Record

Subject Index
Volume 3
Issue 5

Subject	Page
Adjudication	
Administrative Law Judge Decision	
Reopening of record	1200
Staffing issue	1200
Orders or Notices	
Reconsideration, timeliness and	1176
Review Board or Commission Decision	
Air hazard	1177
Reopening of record	1177
Aviation Services	
Technical specifications	
Emission, types of	1027
Modulation requirements and type acceptance of equipment	1027
Broadcast Radio Services - General Rules	
Applications for authorization	
Acceptance of applications, procedure for	956
Conflicts in applications, agreement for removing	1070, 1179
Public inspection file of noncommercial stations, local	1032
Public notice of filing of broadcast applications, local	958
Construction permits	
Extension/replacement, application for	954
Broadcasting - FM Stations	
Allotments and assignments	
Allotments, table of	962, 964, 971, 1025, 1005, 1007, 1011, 1012, 1018, 1020, 1051, 1053, 1079, 1081, 1086
Broadcasting - TV Stations	
Allocations/assignments/licenses	
Table of assignments	1022, 1057,

Subject	Page
Cable Television Service	
Markets and services	
Crossownership: limitation on cable company carrying a TV signal	1039
Commission Organization	
General public information and inspection of records	
Inspection of records not routinely available, request for	1182, 1183
Common Carriers: Miscellaneous Rules	
Common carriers, miscellaneous rules relating to	
Enhanced services (computer) and customer-premises equipment	1190
Communications Act of 1934	
	1235, 1042
Extension of lines	1035, 1036, 1089, 1090
Common Carrier	
Hearings on proposed charges	1184
Miscellaneous provisions	
Unauthorized publication of communications	1202
Frequency Allocations and Radio Treaty Matters	
Allocation, assignment, and use of radio frequencies	
Assignment of frequencies between 9kHz and 400GHz	948
Maritime Services	
Safety watches	
Ship: Communications Act and Safety Convention	1048
Practice and Procedure	
Fees filed with Commission: schedules: general information	
Exceptions, general	956
Hearing proceedings: appeal and reconsideration	
Interlocutory ruling, appeal from	1178
Information, general	
Suspend/amend/waive rules at any time, Commission may	1043
Reconsideration/review of Commission action	
Actions by delegated authority, application for review of	1181
Reconsideration of a final FCC action, petition for	1184
Rulemaking proceedings: proceedings	
Reconsideration, petitions for	956

Subject	Page
Private Land Mobile Radio Services	
General information	
Licenses, type of organizations eligible for	1091
Public Mobile Service	
Applications and licenses-filing requirements	
Amendment of applications	1191, 1193
Defective applications	1193
Requirements	1044
Technical content of applications	950
Waiver of rules, conditions for granting	948
Applications and licenses-processing	
Consideration of applications	952, 952
Construction, time period allowed for	1044
Mutually exclusive applications	1193
Developmental authorizations	
Eligible for authorization, communication common carriers	948
Domestic public cellular radio telecommunications service	
Financial qualifications	1087
Service areas	1191
Statutory Citations Other than Communications	1039
Public information; agency rules, opinions, orders	1182, 1183
Telecommunications Companies: Classes A and B	1043
Telephone Companies: Separation Procedures	
Universal service factor (study areas)	
National average unseparated loop cost per working loop	1023
Telephone Company: Service Altered	
Extensions and supplements	
Applications, contents of	1035, 1036,
Terminal Equipment Connected to Network	
Registration procedures	
Wiring for one and two line service, installation of	1120
Terminal equipment, conditions on use of	

TABLE OF STATUTORY AND RULE PROVISIONS

Page

(Jonesville FM Group Ltd Partnership)(Jonesville, LA) 1094
(Karen E. Younginger)(Webster, New York) 1077
(Knight Communications Corp.)(Fairhaven, Massachusetts) 1195
(Marvin G. Schwartz)(San Jacinto, California) 1073
(Posey County Broadcasting Co., Inc.)(Mount Vernon, Indiana) 1075
(Thief River Radio)(Thief River Falls, Minnesota) 1198
000.461 Requests for Inspection of Records 1182
000.461 Requests for Inspection of Records 1183
001.003 Suspension, Admendments, or Waivers 1043
001.046 Motions for Extension of Time 1119
001.106 Petitions for reconsideration 1184
001.1104 Schedule of charges for Mass Media services 956
001.1107 Payment of charges 956
001.1114 Penalty for late or insufficient payments 956
001.115 Application for Review 1181
001.301 Appeal, Late-filed, Dismissed 1046
001.301 Appeal, Voluntary Dismissal of 1178
001.429 Petition for reconsideration 956
002.102 Assignment of frequencies 948
002.106 Table of Frequency Allocations 1215
022.013(f) State certification 1044
022.015(a)(1) Technical Content of Applications 950
022.019 Waiver of rules 948
022.020 Defective applications 1193
022.023 Amendment 1191
022.023 Amendment of applications 1193
022.031 Mutually exclusive applications 1193
022.032 Consideration of applications 952
022.043 Period of construction 1044
022.400 Eligibility for developmental authorizations 948
022.903 Cellular System Service Area 1191
022.917(c) Demonstration of Financial Qualification 1087
032.018 Waivers 1043
032.3000 Instructions for Balance Sheet Accounts - Dep. & Am 984
032.4240 Reacquired debt 1043
036.379 1189
049.702, Furnishing of Customer Premises Equipment 1116
061.038 Material to be submitted with letters of transmittal 978
061.038; 47 USC § 204 995
061.038; § 1.45; § 1.2 1117
063.001 Contents of Applications 1035
063.001 Contents of Applications 1036
063.001 Contents of Applications 1037
063.001 Contents of Applications 1038
063.001 Contents of Applications 1089
063.001 Contents of Applications 1090
064.702 Furnishing of Enhanced Services and CPE 1190
064.702 Furnishing of enhanced services, Computer III 1095
064.702 Furnishing of enhanced services, Computer III 1108
064.702 Furnishing of enhanced services, Computer III 1135

064.702 Furnishing of enhanced services, Computer III 1150
065.702 Measurement of interstate services earnings 1063
068.104 Means of Connection 1120
068.213 Installation of other than fully protected wiring 1120
073.202 FM Table of Allotments 962
073.202 FM Table of Allotments 964
073.202 FM Table of Allotments 967
073.202 FM Table of Allotments 969
073.202 FM Table of Allotments 971
073.202 FM Table of Allotments 973
073.202 FM Table of Allotments 1001
073.202 FM Table of Allotments 1009
073.202 FM Table of Allotments 1010
073.202 FM Table of Allotments 1018
073.202 FM Table of Allotments 1020
073.202 FM Table of Allotments 1025
073.202 FM Table of Allotments 1049
073.202 FM Table of Allotments 1053
073.202 FM Table of Allotments 1055
073.202 FM Table of Allotments 1059
073.202 FM Table of Allotments 1081
073.202 FM Table of Allotments 1083
073.202, FM Table of Allotments 1005
073.202, FM Table of Allotments 1007
073.202, FM Table of Allotments 1011
073.202, FM Table of Allotments 1012
073.202, FM Table of Allotments 1014
073.202, FM Table of Allotments 1016
073.202, FM Table of Allotments 1051
073.202, FM Table of Allotments 1079
073.202, FM Table of Allotments 1085
073.202, FM Table of Allotments 1086
073.3525 Agreements for removal of application conflicts 1179
073.3525 Settlement Agreement, Dismissed 1070
073.3527 Local pub.inspect.file of NCE Stations 1032
073.3534 Application for extension of construction permit or 954
073.3564 Acceptance of applications 956
073.3580 Application for Voluntary Assignment or Transfer of 958
073.606 TV Table of Allotments 1057
073.606, FM Table of Allotments 1022
073.606, TV Table of Allotments 1061
076.501 Cross Ownership 1039
080.305 Watch requirements of the Communications Act and the 1048
087.067 General facilities requirements for coast stations 1027
087.073 Modulation requirements 1027
087.1053 Special requirements for Class A EPIRB stations 1027
087.207 Classes of emissions 1027
090.001 Basis and purpose. 1091
300.201 Service and charges 1130
300.202 Discrimination and preferences 1132
300.203 Schedule of Charges 975
300.204 Hearing as to Lawfulness of New Charges,Suspension 975
300.204 Hearing as to lawfulness of new charges, suspension 1184
300.205 Commission authorized to prescribe just and 1063

300.205 Commission authorized to prescribe just and 1130
300.208 Complaints to the Commission 1042
300.214 Extension of Lines 1035
300.214 Extension of Lines 1036
300.214 Extension of Lines 1037
300.214 Extension of Lines 1038
300.214 Extension of Lines 1089
300.214 Extension of Lines 1090
300.386(a) Forfeitures 1048
300.605 Unauthorized Publication of Communications 1202
400.05552 Public Information 1182
400.05552 Public Information 1183
400.1518 Acquisition by one corporation of stock of another 952
400.261071 Gain from sale or exchange to effectuate policies 1039
400.47721 Implementation of Policy 1128
400.47721 Implementation of Policy 1130
400.47721 Implementation of policy 1132
500.145 - Air Hazard 1176
500.200 SD (Destin, Florida) MM Doc. 87-488, FCC 88D-8 1177
500.2145 Air hazard Issue 1177
500.3025 Integration of Ownership, Local Residence 1065
500.3170 Financial Qualifications 1065
500.3170 financial qualifications 1200
500.3185 staffing issue 1200
500.3200 reopening of record 1200
Jurisdictional Separations Procedures 1023
NPRM, FM B/C STAS. (Riverside, PA), DA 88-228 1003
Part 68, Subpart F - Connectors 1120
Section 36.621(a)(4) 1023
Universal Service Fund 1023

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of

U S WEST NEWVECTOR, INC. File No. 00415-CL-CP-B-88

Request for Waivers, Developmental Authority and Related Relief

MEMORANDUM OPINION AND ORDER

Adopted: February 18, 1988; Released: February 29, 1988

By the Chief, Mobile Services Division:

1. U S West NewVector Group, Inc. (NewVector) has filed Requests for Waivers, Request for Developmental Authority and Related Relief. New Vector seeks authority to provide cellular radio service to the United States Air Force (USAF) base in Colorado Springs, Colorado, [1] and to dedicate 80 Block B frequency channels to the USAF system for a five year period. NewVector is the general partner of Colorado Springs MSA Limited Partnership (CSLP), the frequency Block B cellular licensee for the Colorado Springs, Colorado MSA. [2]

2. By *Public Notice*, Report No. CL-87-321, released August 18, 1987, the Commission requested comments on NewVector's proposal. We have received five comments supporting the proposal, two comments expressing reservations and one reply comment. For the reasons set forth below, we are granting NewVector's requests.

NEW VECTOR'S REQUESTS

3. NewVector requests waiver of Commission rules requiring that the frequencies involved be used to provide service to the public. [3] NewVector's engineer submitted an affidavit stating that he had studied the projected growth of the Colorado Springs cellular system, and that local subscribers would not need the 80 channels during the five year period. NewVector also submitted a statement from the Department of Defense (DOD). DOD states that part of NORAD's function is to assess the threat posed by missile launches, and that officers responsible for threat assessment must be capable of being contacted within seconds. DOD states that NORAD's current mobile communications system is inadequate, and that the proposed USAF cellular system will correct existing deficiencies. [4] DOD recognizes that the Commission can terminate USAF's use of the dedicated frequencies, if such action is found to be in the public interest.

4. DOD further states that it thoroughly studied possible alternatives before deciding on a leased commercial cellular system. DOD indicates that both trunked and cellular radio would meet USAF's requirements. However, at the time USAF began the procurement process, there were no trunked or cellular systems available which were capable of operating on government frequencies. DOD states that the urgency of the need, and the lengthy government acquisition process, precluded waiting for such systems to be developed.

5. NewVector also requests waiver of Sections 22.915 and 22.902(e) of the rules, to permit use of modified cellular telephones. [5] Section 22.915 sets forth technical compatibility specifications, while Section 22.902(e) requires that all mobile units be initially capable of communicating on 666 specified channels. During an initial two week period, USAF plans to use three mobile units capable of receiving only the dedicated Block B frequencies. After two weeks, these units will be replaced by cellular telephones which, in one mode, will receive only the dedicated channels, but in a second mode will be able to receive all 666 channels.

6. NewVector also requests waiver of Section 22.23(c)(3) of the rules, which provides that amendments resulting in an increase in the Cellular Geographic Service Area (CGSA) will be considered major amendments. The proposed USAF system will serve part of the Colorado Springs CGSA as well as an area outside of the CGSA. NewVector, however, states that the expanded CGSA will not be used to provide service to the public, and will be limited to the proposed USAF system.

7. Finally, pursuant to Section 22.400 of the rules, NewVector requests developmental authority to allow the use of a cell enhancer. NewVector states that the cell enhancer's maximum power will be 0.25 watts per channel, with a composite power not to exceed 5.5 watts, and that at the end of the test period a report summarizing results will be submitted to the Mobile Services Division. NewVector states that use of the cell enhancer will result in more efficient service in the Cheyenne Mountain tunnel, will minimize the need to add new cells, and will provide the Commission with additional information on the use of cell enhancers in mountainous areas.

COMMENTS

8. AT&T, DOD, Cellular Telecommunications Industry Association (CTIA), McCaw Government Services Group, Inc. (McCaw) and Centel Cellular Company (Centel) submitted comments supporting NewVector's requests. McCaw stated that the waiver should be granted solely on the unique facts present in Colorado Springs, and should not serve as a precedent for any other market. Centel urged the Commission to adopt a policy of general applicability for granting similar waivers that seek authority to allow dedicated cellular service.

9. Comments filed by American SMR Network Association, Inc. (ASNA) and National Association of Business and Educational Radio, Inc. (NABER) expressed reservations about the government's use of non-government spectrum. Both ASNA and NABER recommend that the spectrum allocation issue be dealt with in a Rule Making proceeding rather than on an ad hoc basis. NABER opposes grant of NewVector's requests unless USAF demonstrates that government spectrum is unavailable or insufficient, and that a cellular system is the only existing technology capable of meeting USAF's needs. ASNA questioned whether NewVector would retain control over the frequencies since NewVector would not own or operate the equipment and would not be able to terminate USAF's use of the dedicated channels during the five year term.

10. In a reply to the comments of ASNA and NABER, NewVector argues that its proposal should not be considered as part of a Rule Making proceeding. NewVector states that it has submitted a unique request based on specific facts, that the request can be granted pursuant to Section 22.19 of the rules, and that protracted Rule Making proceedings would harm its effort to assist the national defense. NewVector further indicates that when USAF began the procurement process, a commercial cellular system was the only practicable means to meet USAF's requirements. Finally, NewVector replies that under the contract with AT&T, NewVector "shall retain full and final power, authority and control" over use of the frequencies and that NewVector will be in control of system operations.

DISCUSSION

11. NewVector has demonstrated USAF's need for a new mobile communications system in Colorado Springs, and has shown why a leased commercial cellular system was selected to meet that need. NewVector has also demonstrated that service to the public will not be harmed by dedicating 80 Block B frequency channels to the proposed system for a five year period. Furthermore, USAF recognizes that its use of the dedicated frequencies may be terminated by the Commission at any time, if such action is found to be in the public interest. NewVector's other requests involve technical implementation of the USAF system, and are not expected to result in interference with other cellular systems. For the foregoing reasons, we find that the public interest will be best served by granting NewVector's requests.

12. However, we appreciate the concern expressed in several of the comments regarding the development of spectrum policy on a case by case basis. The Commission has initiated a rule making proceeding, *See Notice of Proposed Rule Making* Gen. Docket 87-390, 2 FCC Rcd 6244 (1987), which will address alternative uses of the cellular spectrum. We will defer further requests for waivers to allow dedicated cellular service, or government use of non- government cellular frequencies, until after this rule making is completed. Furthermore, our grant of NewVector's requests is limited to the facts of this case, and will not serve as a precedent in any future cases.

ORDERING PARAGRAPHS

13. Accordingly, IT IS ORDERED that US West NewVector, Inc.'s Requests for Waivers, Request for Developmental Authority and Related Relief, File No. 00415-CL-CP-B-88 IS GRANTED. Construction is not authorized at any location for which a final Federal Aviation Administration determination has not been submitted to the FCC and any required marking and lighting specifications have not been issued by the FCC. The authorization does not include the right to any interference protection in any areas outside of the Colorado Springs MSA and is further conditioned upon NewVector's coordination with current and future licensees in adjacent markets and on not causing interference to licensees in those areas. The authorization is further conditioned on the remaining cellular spectrum being adequate to satisfy the public needs for cellular service in the Colorado Springs CGSA. Furthermore, NewVector shall advise the Commission within one year as to what steps are being taken, by NewVector or USAF, to ensure that defense communications requirements will be satisfied utilizing spectrum allocated to the Federal Government at the expiration of this five year waiver request.

14. This order is issued under Section 0.291 of the Commission's rules and is effective on its release date. Petitions for reconsideration under Section 1.115 of the rules may be filed within 30 days of the date of public notice of this order. *See* Section 1.4(b)(2) of the rules.

FEDERAL COMMUNICATIONS COMMISSION

Kevin J. Kelley
Chief, Mobile Services Division
Common Carrier Bureau

FOOTNOTES

[1] This base includes the North American Aerospace Defense Command (NORAD).

[2] USAF contracted with American Telephone and Telegraph Company (AT&T) for cellular equipment, facilities and services in Colorado Springs. AT&T entered into a subcontract with NewVector for provision of the cellular radio frequencies.

[3] NewVector cites Sections 2.1, 2.106, 22.2 and 22.902 of the rules.

[4] NORAD currently uses a traditional, party-line, unsecure, VHF interbase radio system. DOD states that this system fails to provide adequate coverage or privacy, lacks priority overide capacity and automatic network management, and has high channel loading.

[5] NewVector also requests waiver of Section 22.902(c) to permit the use of six voice channels as control channels.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of

CHARLES MITCHELL File No. 60248-CL-P-223-A-86
DANT

For authority to Construct and
Operate a Domestic Public
Cellular Radio Telecommunications
System on Frequency Block A in
the Elkhart-Goshen, Indiana
Metropolitan Statistical Area

ORDER ON RECONSIDERATION

Adopted: February 17, 1988; Released: February 29, 1988

By the Chief, Common Carrier Bureau:

1. On October 31, 1986, the application of Charles Mitchell Dant (Dant) was selected first in the non-wireline lottery for the Elkhart-Goshen, Indiana MSA. Paul Thompson (Thompson) filed a petition to deny Dant's application to which Dant filed an opposition. Dant also filed an amendment to change the location of a cell site. On September 15, 1987, the Mobile Services Division (MSD) released a Memorandum Opinion and Order (MO&O) in which it denied Thompson's petition and granted Dant's application. Thompson has filed a petition for reconsideration and Dant has filed an opposition.

THE PETITION

2. Thompson claims that there were two errors in the MO&O which require reversal. First, Thompson states that the MSD erroneously concluded that Dant had reasonable assurance that the location he initially proposed for Cell Site 1 was available. Second, Thompson contends that it was an error to allow Dant to amend his application to propose a new location for Cell Site 1.

REASONABLE ASSURANCE

3. Thompson's Petition to Deny alleged that Dant did not have reasonable assurance that either of his two proposed cell sites were available. With regard to Cell Site 1 (Thompson no longer is challenging the availability of the second cell site) it was alleged that the owner of the site had not made the property available for the construction of an antenna tower and also that the property was located in a residential neighborhood which was not suitable for the construction of a tower. In fact, anything other than residential use was prohibited by covenants included in the development's deeds.

4. In his response, Dant indicated that Thompson had contacted the wrong land owner for Cell Site 1 and submitted a copy of a letter from an owner who had agreed to make his land available for the construction of an antenna tower. However, because attempts to reach the owner in order to reconfirm the availability of the land were unsuccessful, Dant filed an amendment proposing a new location for Cell Site 1. Dant did not address Thompson's assertion that there were restrictions in the deeds of the development where he had originally proposed to locate Cell Site 1 which would prohibit the construction of a tower. Dant maintained, however, that the property was made available prior to the time he had filed his application and that he had no reason to believe that it was not still available for the construction of a tower.

5. Thompson maintains that the MSD erred when it concluded that Dant had reasonable assurance that the Cell Site 1 property was available for the construction of a tower. Thompson asserts that the land was unsuitable for the location of a tower because it was in a residential area with restrictions in deeds that prohibit non-residential use. Thompson argues that Dant's agent who selected the site should have realized that it was in an area in which construction of a tower would be prohibited. Thompson states that the agent should have investigated to determine whether there were restrictions on the use of the land. Dant must be held responsible for his agent's failure, argues Thompson and cites *Central Illinois Cellular Limited Partnership*, 2 FCC Rcd 436 (1987) where errors by an application preparer resulted in dismissal of the application.

6. In response, Dant contends that the MSD correctly applied the reasonable assurance test. According to Dant, it was appropriate for him to rely upon the representations of the land acquisition company that located the site and the site was, in fact, available. Dant states that *Central Illinois Cellular Limited Partnership*, supra, is inappropriate because the errors in that case were on the cover sheet of the application and in the eligibility representations and should have been recognized by the applicant.

DISCUSSION

7. In its MO&O the MSD set forth the correct standard for determining whether an applicant has *reasonable* assurance of site availability:

> At the time the application is filed, the applicant must determine that there is space available on an existing building or tower, or if a new structure is to be build, that the property is available for such use and that it is reasonable to anticipate that it may use this space.

Charles Mitchell Dant, DA 87-1266, released September 15, 1987 (quoting *Public Mobile Service*, 95 FCC 2d 769, 778 released December 19, 1983).

8. This test requires applicants to take reasonable precautions in specifying a site. An applicant does not satisfy the reasonable assurance test by specifying a location which is obviously unsuitable for the purpose proposed. Thus, specification of a clearly undersized lot would not meet the test. Similarly, property that is situated in a community of single family homes on quarter acre lots cannot be offered as a site based solely on a landowner's offer of availability. There is a duty to verify that the land is available for the use proposed when circumstances

make it obvious that there may be physical or legal restrictions which might make tower construction impossible.

9. It is not disputed that the site originally proposed by Dant was made available by the owner who dealt with Dant's agent. Nor has Dant contested Thompson's assertion that there were restrictive covenants prohibiting the construction of antenna towers in the area. Thus, it must be concluded that although the property was made available to Dant, he would not have been able to place his antenna tower in that location without changes to local zoning or covenants.

10. We, nevertheless, affirm the MSD's conclusion that Dant had the necessary reasonable assurance for the Cell Site 1 location. While we agree with Thompson that Dant is responsible for the acts and omissions of his agent, our review of all the pleadings convinces us that Dant's agent, having secured an "Agreement of Understanding" from the landowner providing for the construction of a tower (Opposition to Petition to Deny, Attachment A), did all that was necessary under the circumstances of this case. We note that the lots in the area are large, ranging from nine tenths of an acre to two acres (Petition to Deny, Exhibit 1). Nor did Thompson establish that an observer would have been alerted by the physical character of the neighborhood that restrictive covenants were likely. The Agreement of Understanding was signed by the owner of Cell Site 1 in December of 1983 (Opposition to Petition to Deny, Attach E). The Petition to Deny does not indicate that the community had been developed by 1983. It appears, from the copies of the deeds attached to the Petition to Deny, that the developer was selling lots after 1983. Finally, Dant has secured a new location for Cell Site 1 only 400 feet from his original choice making it clear that the area in question is not too congested to accommodate a tower.

11. We expect applicants to exercise reasonable caution when they select a tower site. If circumstances suggest that the placement of a tower might be prohibited, the applicant (or his agent) must make the effort to determine whether there are restrictions. However, where there are no apparent characteristics signaling a possible restriction, an applicant who has found a landowner who is willing to allow a tower to be constructed need not go further. We conclude that Dant's agent did all that was necessary with regard to Cell Cite 1 and we, therefore, affirm the MSD's decision.

THE AMENDMENT

12. Thompson argues that the MSD erred when it allowed Dant to amend his application to specify a new Cell Site 1. Thompson claims that an amendment which cures a defective application is a major amendment and cannot be accepted. We have, however, concluded that Dant's application was not defective. Relocation of the site to a new location 400 feet away did not significantly alter the technical characteristics of the proposal and the MSD was correct in treating the amendment as a minor change.

13. Therefore, for the foregoing reasons, IT IS ORDERED, That the Petition for reconsideration IS DENIED.

14. This order is issued under Section 0.291 of the rules and is effective on its release date. Applications for Review under Section 1.115 of the Rules may be filed within 30 days of the date of the public notice of this order. *See* Section 1.4(b)(2).

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Applications of

CONTACT	File Nos. 23033-CD-AL-01-87
COMMUNICATIONS	23035-CD-AL-01-87
(Assignor)	23038-CD-AL-01-87
U S WEST PAGING,	23041-CD-AL-01-87
INC.	23043-CD-AL-01-87
(Assignee)	23046-CD-AL-01-87

For Assignment of the Licenses for Stations KNKG547, KWU328, KLF930, KTS255, KQZ796, and KAF241 in the Public Land Mobile Service at Denver and Colorado Springs, Colorado

MEMORANDUMOPINION AND ORDER

Adopted: February 18, 1988; Released: February 29, 1988

By the Chief, Mobile Services Division:

1. Contact Communications (Contact) and U S WEST Paging, Inc. (U S WEST Paging) have filed the captioned applications requesting consent to the assignment of the licenses for the referenced stations from Contact to U S WEST Paging. U S WEST Paging will acquire Contact's licenses once it exercises all of its options to purchase the partnership interests currently held by Contact's partners. U S WEST Paging is a wholly-owned subsidiary of U S WEST New Vector Group, Inc., which is a wholly-owned subsidiary of U S WEST, Inc., one of the divested Regional Holding Companies. Mobile Telecommunications, Inc. (MTI), a private land mobile service provider licensed by the Federal Communications Commission and offering paging services in the same general operating areas as Contact, has filed a Petition to Deny the captioned applications. In addition, RAM Mobile Communications of Colorado, Inc. (RAM), a radio common carrier serving Colorado Springs, Colorado, has filed a Petition to Deny Contact's applications relating to services Contact provides in Colorado Springs, Colorado via Stations KAF241 (File No. 23041-CL-AL-01-87), KWU328 (File No. 23035-CL-AL-01-87), and KNKG547 (File No. 23033-CL-AL-01-87). Contact and U S WEST Paging filed Oppositions to the foregoing Petitions to Deny, to which RAM has filed a Reply. Lastly, Contact has filed a Further Supplement to its Opposition pleading.

2. MTI's Petition to deny is based upon the fact that Contact has been pursuing a formal complaint against MTI before the Public Utilities Commission (PUC) of the State of Colorado. That complaint claims that MTI has been providing an intrastate common carrier service, rather than a private carrier service, and has violated Colorado law by operating without obtaining the required certificate of public convenience and necessity from the Colorado PUC. The complaint also asserts that MTI's paging service has "resulted in unfair and illegal competition with and material diversion of subscribers from Contact and other authorized public utility radio common carriers." MTI argues that Contact's arguments before the Colorado PUC and its refusal to entertain MTI's proposed settlement of that proceeding raise a significant question as to whether Contact's state challenge was filed in good faith or as a "harassment tactic intended to deplete MTI's resources and dampen its competitive ardor." MTI contends that if the Colorado complaint was filed as a harassment tactic, it would appear that Contact has misused the administrative process and therefore lacks the necessary qualifications to hold or assign an FCC authorization.

3. In its "Further Supplement to Consolidated Opposition to Petition to Deny," Contact states that the Colorado PUC has released a decision (Decision No. C87-1524, issued November 4, 1987) in which it concludes that during a period of time prior to July 2, 1987, MTI violated Colorado law by providing an intrastate common carrier service without having obtained a certificate of public convenience and necessity from the Colorado PUC. The Colorado PUC also observed that, as of July 2, 1987, the subject matter of Contact's complaint became moot inasmuch as the Colorado General Assembly had deregulated mobile radio service and radio paging service effective that date. See Section 40-15-401(1)(c) and (d) of the Colorado Revised Statutes. In light of the Colorado PUC's decision, it is clear that MTI's Petition to Deny lacks merit and we hereby deny it.

4. RAM's petition against the proposed assignment applications involving service to Colorado Springs, Colorado, is based upon the fact that only two carriers, Contact and Mountain States Telephone and Telegraph Company (Mountain States), are authorized by the Colorado PUC to offer local paging service in Colorado Springs. RAM argues that the assignments of license by Contact to U S WEST Paging would reduce the number of local carriers to one, since both U S WEST Paging and Mountain States are second-tier subsidiaries of U S WEST, Inc. Further, RAM claims that the Colorado PUC applies the doctrine of "regulated monopoly" in its regulation of radio common carriers, the result of which is that a carrier cannot get a local certificate unless it can demonstrate that existing carriers are unable and unwilling to meet the public's need for the proposed service. In this light, RAM contends that the proposed assignments of licenses for Contact's stations serving Colorado Springs would violate Section 7 of the Clayton Act, 15 U.S.C. Section 18, because the effect of those assignments would be to substantially lessen competition and create a virtual monopoly over local paging service in Colorado Springs. RAM requests that the Commission deny the assignments of licenses for the stations serving Colorado Springs pursuant to Section 11 of the Clayton Act, 15 U.S.C. Section 21, which authorizes the Commission to enforce Section 7 in matters involving wire and radio common carriers.

5. In response to RAM's petition, both Contact and U S WEST Paging argue that the services at issue are local paging services, which are purely intrastate in nature and that the United States Court of Appeals for the District of Columbia Circuit has ruled that the Communications Act of 1934, as amended, commits the regulation of the common carrier aspects of intrastate radio transmission to the States. *See California* v. *FCC*, 798 F.2d 1515, 1518 (D.C. Cir. 1986) and *National Association of Regulatory Utility*

Commissioners (*NARUC*) v. *FCC*, No. 86-1205, Remand Order and accompanying Memorandum (D.C. Cir., March 30, 1987). Further, U S WEST Paging observes that, in *California* v. *FCC*, *supra*, the Court of Appeals stated that it was aware that state regulations "are often expressly designed to shield existing common carriers from having to compete with new entrants, thus frustrating the FCC's efforts to encourage competition." In light of the foregoing, the parties to the subject assignment applications claim that RAM is asking the Commission to rule on issues which the Court has determined are beyond its purview and that therefore RAM's petition should be rejected.

6. Having reviewed the pleadings and the relevant law, we conclude that RAM's petition is without merit. The State of Colorado has deregulated mobile radio service and radio paging service. See paragraph 3, *supra*. Therefore, RAM's argument that local law heavily favors existing carriers and practically prohibits entries by new carriers is no longer valid. Rather, it appears that RAM and other potential providers of commercial paging services are now able to enter the paging business so long as this Commission can license them and frequencies are available for their use. At this point, frequencies are available in the Colorado Springs area. Thus, with "open entry" now being the rule for mobile services in Colorado, and with frequencies being available for additional paging services in Colorado Springs, we are not persuaded that the proposed assignments will necessarily result in a diminution of competition in the Colorado Springs market. Moreover, for the same reasons, the evidence before us does not support a conclusion that the acquisitions may substantially lessen competition or "tend to create a monopoly" in violation of Section 7 of the Clayton Act, 15 U.S.C. Section 18. RAM or others are free to enter the Colorado Springs market and compete with U S WEST Paging and Mountain States.[1] In light of all the foregoing facts, RAM has failed to present any grounds for denying the assignment applications now before us or for conducting an evidentiary hearing to determine whether granting these applications would serve the public interest.

7. We find that U S WEST Paging is qualified to hold the licenses involved in the captioned assignment applications. We also find that approving these applications will serve the public interest, convenience and necessity.

8. Accordingly, IT IS ORDERED, that the captioned assignment applications filed by Contact and U S WEST Paging ARE GRANTED.

9. IT IS FURTHER ORDERED, that the Petitions to Deny filed by Mobile Telecommunications, Inc. and RAM Mobile Communications of Colorado, Inc. ARE DENIED.

10. This order is issued under Section 0.291 of the Commission's Rules and is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Rules may be filed within 30 days of the date of public notice of this order. *See* Section 1.4(b)(2).

FEDERAL COMMUNICATIONS COMMISSION

Kevin J. Kelley
Chief, Mobile Services Division
Common Carrier Bureau

FOOTNOTE

[1] Even if a potential antitrust violation were involved in a particular matter, antitrust consequences would be but one factor to be considered by the Commission in determining whether granting an application would serve the public interest. *United States* v. FCC, 652 F.2d 72, 88 (D.C.Cir.1980).

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of

ASTRO ENTERPRISES, INC. File No. BP-860407AA
WJEA, Palm City, Florida

For Reinstatement of Construction Permit

MEMORANDUM OPINION AND ORDER

Adopted: February 16, 1988; Released: February 29, 1988

By the Commission:

1. The Commission has before it for consideration an application for review of the action of the Chief, Audio Services Division, Mass Media Bureau, denying the request of Astro Enterprises, Inc. ("Astro"), for reinstatement of its permit to construct station WJEA.

2. On April 25, 1983, the Commission granted Astro's application for a permit to construct a new AM facility in Palm City, Florida. This permit was due to expire on April 25, 1984. However, in March 1984, Astro requested an extension of time on its permit stating that the necessary transmission facilities were on hand and construction could be completed by November 15, 1984. The staff granted an extension until October 26, 1984. On November 8, 1984, Astro requested reinstatement and a further extension on its permit which had expired on October 26. In support thereof, Astro stated that the State of Florida had imposed a citrus quarantine in September 1984, which temporarily prevented Astro from constructing at its proposed site in a citrus grove. A June 18, 1985, update to Astro's request for reinstatement of its permit stated that the quarantine had been lifted in April 1985, that the studio and transmitter equipment were on hand and that Astro was ready to begin construction. Based on these representations, Astro's permit was reinstated and the construction period extended to December 19, 1985. On March 25, 1986, Astro's permit was cancelled and its call sign deleted because neither a license application nor an FCC Form 701 reinstatement request had been filed with the Commission to cover the expired permit.

3. On April 7, 1986, Astro filed a petition for reconsideration of that action. In support of its request, the permittee maintained that the delay in construction had been caused initially by a citrus quarantine at its tower site. Although the quarantine was lifted in April 1985, Astro claimed that it was unable to commence construction until the citrus trees on the site were destroyed. While Astro alleged that this process required the supervision of certain governmental and local agents, it made no showing of efforts to obtain the necessary supervision.

4. In denying Astro's request for reconsideration, the Chief of the Audio Services Division reasoned that since the quarantine had been lifted at the site in April, 1985, Astro had an adequate opportunity (in excess of seven months) to resolve all problems and actually begin construction. Because Astro had not yet even coordinated with the appropriate state and local authorities to arrange for the necessary supervision of the tree destruction process, the staff ruled that Astro had neither demonstrated that the construction delay was due to circumstances beyond its control nor that all possible steps had been taken to proceed expeditiously with construction, the applicable standards reiterated in *Construction of Broadcast Stations*, 102 FCC 2d 1054 (1985). Astro's petition was thus denied and its application for reinstatement of the construction permit dismissed. Astro's application for review followed.

5. In support of its application for review, Astro maintains that, contrary to the staff's ruling, its lack of substantial progress toward completion of construction was, in fact, caused by circumstances beyond its control. Astro also argues, for the first time, that after the quarantine was lifted, its efforts to obtain the necessary zoning approval met considerable local opposition. Despite these difficulties, Astro maintains that it has invested $64,000 as a down payment for its proposed transmitter site. Given the problems it has encountered and its good faith efforts to resolve them, Astro concludes that the public interest favors allowing additional time in which to resolve the zoning matters so that it may secure the necessary permits.

6. We cannot agree with Astro's assertion that reinstatement is warranted, and conclude that the staff acted correctly in denying Astro's request. 47 C.F.R. § 73.3534 provides that an extension of time will be granted when construction has been delayed for reasons beyond the control of the permittee (*e. g.*, zoning problems) and all possible steps to resolve these problems expeditiously have been taken by the permittee. While the citrus quarantine clearly constituted a circumstance beyond the permittee's control within the meaning of our guidelines governing applications of this nature, more than seven months elapsed between the lifting of the quarantine and the expiration of Astro's construction permit. Astro's failure to make any construction progress whatsoever during this period does not constitute the due diligence required by our guidelines.

7. Similarly, we do not believe that Astro had demonstrated that recent zoning problems represent a legitimate cause for delay in the construction of WJEA. In support of this argument, Astro claims that in August 1986, the County Administrator for Martin County advised Astro that there was a 20 acre minimum lot size for communications towers unless a variance was granted. This requirement, Astro asserts, is in direct conflict with a September 1981 letter from the Zoning Inspector for Martin County which stated that communications towers were permitted in the area of Astro's site "subject to all applicable regulations imposed by the County, State, and [sic] Federal agencies which have jurisdiction over the construction and erection of this type of an operation." Application for Review at Exhibit 2. However, Astro fails to demonstrate that any effort was made prior to August 1986 to contact these agencies to determine what regulations applied to the construction of its proposed tower or to obtain the necessary building permit. The evidence submitted by Astro does not support the conclusion that the County, between 1981 and 1986, changed the requirements for constructing a communications tower, thereby creating another obstacle to Astro's prompt construction of WJEA. On the contrary, we believe that the evidence submitted affirms our conclusion that Astro has not acted

with due diligence in trying to construct the station since Astro apparently failed to investigate what regulations governed construction of the proposed tower until August 1986, nine months after its construction permit, as extended, expired.

8. Accordingly, for the reasons set forth herein IT IS ORDERED, That the application for review filed by Astro Enterprises, Inc. IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of

MILT KLEIN File No. (ARN-870506MV)

For a Construction Permit for a new
FM Station on Channel 258
Rancho Mirage, California

MEMORANDUM OPINION AND ORDER

Adopted: February 17, 1988 Released: February 29, 1988

By The Commission:

1. The Commission has under consideration an Application for Review filed June 30, 1987, on behalf of Milt Klein ("Klein"), of the action of the Chief, Audio Services Division, Mass Media Bureau, denying Klein's Petition for Reconsideration and Acceptance of Application *Nunc Pro Tunc*, and returning the above-captioned application.

2. Klein submitted his application on April 21, 1987. The application was returned by the Fee Section because it was unaccompanied by a $1800 fee as required by 47 C.F.R. § 1.1104. On May 6, 1987, Klein filed a Petition for Reconsideration and Acceptance of Application Nunc Pro Tunc ("Petition") along with the $1800 filing fee. In support of this petition, Klein argued that: (i) counsel for petitioner erroneously believed that the fee collection process had been stayed due to a pending Petition for Reconsideration of the Commission's Report and Order establishing the fee collection program; and (ii) acceptance of Klein's application *nunc pro tunc*, with the appropriate fee, best serves the public interest by increasing the number of applicants from which the Commission may select a permittee for the Rancho Mirage channel. The staff denied Klein's petition on June 8, 1987, stating that: (i) the application was properly returned pursuant to 47 C.F.R. §§ 1.1107(a) and (b) and § 1.1114(a), which require that a fee be submitted with each application; (ii) 47 C.F.R. § 1.429(k) specifically provides that the filing of a Petition for Reconsideration does not stay or postpone the enforcement of a Rule Making, and Klein's belief to the contrary does not excuse the failure to comply with fee requirements or justify *nunc pro tunc* acceptance of his application; and (iii) since there were 15 other applications filed for the Rancho Mirage Channel, the Commission has a sufficiently broad choice from which to select a permittee and, therefore, the public interest in this case is best served by enforcing the Commission's rules.

3. In his Application for Review, Klein restates his claim that acceptance of his application would best serve the public interest by increasing the choice of potential permittees for the Rancho Mirage channel. Klein also argues, for the first time, that the rules established in the *Fee Collection Program*, 2 FCC Rcd 947 (1987), are arbitrary, capricious and an abuse of the Commission's discretion because: (i) the filing window for Rancho Mirage extended from March 24 to April 22, 1987 and, therefore, applicants who filed before April 1, 1987, (the effective date of the fee program) did not have to pay a fee, while those who filed after April 1, 1987, did; and (ii) applications with fee deficiencies detected within 30 days of filing are returned while those with fee deficiencies detected after 30 days are permitted to correct the fee deficiency. Finally, Klein argues that dismissal of his application is inconsistent with 47 C.F.R. § 73.3564 which provides for acceptance of substantially complete applications.

4. Klein's assertion that acceptance of his application would best serve the public interest by providing a greater choice of applicants and greater opportunity to ensure the best practicable service in the community of license is without merit. The staff previously rejected this argument, noting that fifteen other applications were filed during the window period for Channel 258, in Rancho Mirage, thus providing the Commission with a broad choice of applicants from which to select a permittee. The staff therefore concluded that the public interest in enforcing Commission rules outweighed any benefit achieved by increasing the number of applicants for the Rancho Mirage channel by one. Although we have, in the past, allowed applicants in hearing to remove disqualifying factors through amendment in order to preserve a choice of applicants for a given broadcast facility,[1] we do not believe that this practice should be extended to the circumstances presented here. Such a practice would be totally at odds with the "hard look" processing procedures adopted in MM Docket 84-750, 50 Fed. Reg. 29936 (1985), and the strict rules established in the *Fee Collection Program*, 2 FCC Rcd 947. Furthermore, while it may be desirable to have as many qualified applicants as possible from which to select a broadcast licensee, "we have recently undertaken to place greater emphasis on providing service to the public in the most efficient, expeditious manner possible. Temporizing with flawed proposals has in the past disserved the public interest by inordinately delaying the initiation of new service." *Chudy Broadcasting Corp.*, 58 RR2d 133, 134 n. 7 (1985). In light of these facts, we believe that the public interest is best served by return of Klein's application.

5. Klein's attempt to raise new arguments in his Application for Review is improper. 47 C.F.R. § 1.115(c) of the rules states that "no application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass." Moreover, Klein's charge that the rules established in the Fee Collection Program are arbitrary and capricious is both inappropriate and untimely. Klein's objection to those rules should have been made in the context of a Petition for Reconsideration of the Rule Making by which the Fee Collection program was established. Having failed to file such a Petition for Reconsideration, Klein will not be permitted to circumvent established procedures for seeking reconsideration of a Commission Rule Making by attacking that Rule Making in the context of an application proceeding.

6. Similarly, Klein's attempt to invoke 47 C.F.R. § 73.3564 (Acceptance of Applications) is inappropriate here not only because this argument was not made on reconsideration, but also because this rule has no relevance to the instant proceeding. Section 73.3564 applies to applications which are forwarded to the Mass Media Bureau for processing. However, payment of the correct fee is a precondition to processing of an application. *See Fee Collection Program*, 2 FCC Rcd at 957.[2] Having failed to

pay the required fee, Klein's application was never forwarded to the Bureau and the rules governing processing of such applications, such as § 73.3564, do not apply.

7. Accordingly, for the foregoing reasons, IT IS ORDERED, that the Application for Review filed on behalf of Milt Klein IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

FOOTNOTES

[1] *See Anax Broadcasting Inc.*, 87 FCC2d 483 (1981) and *Azalea Corp.*, 31 FCC2d 561 (1971).

[2] See 47 C.F.R. § 1.1107(b) which states that "filings for which no remittance is received or for which an insufficient remittance is received shall be dismissed and the application returned to the applicant or his designated agent without processing." See also 47 C.F.R. § 1.1107(c), which states, in pertinent part, that "no application or other filing will be deemed sufficient for processing unless the correct fee is attached."

Before the
Federal Communications Commission
Washington, D.C. 20554

Helen S. Duhamel
(Transferor)

and File Nos. BTCCT-870129KT-KY
BTC-870129KX

William F. Duhamel, Sr.
(Transferee)

For Transfer of Control of Duhamel Broadcasting Enterprises, licensee of Stations KOTA(AM) and KOTA-TV, Rapid City, South Dakota; KHSD-TV, Lead, South Dakota; KDUH-TV, Scottsbluff, Nebraska; KSGW-TV, Sheridan, Wyoming; and KDBJ(TV), Cheyenne, Wyoming.

MEMORANDUM OPINION AND ORDER

Adopted: February 16, 1988; Released: February 29, 1988

By the Commission:

1. The Commission has before it for consideration: (a) the above- captioned applications transferring control of Duhamel Broadcasting Enterprises (Duhamel), from Helen S. Duhamel (Mrs. Duhamel) to her son, William F. Duhamel, Sr.; (b) a petition to deny filed by Midcontinent Broadcasting Company (Midcontinent), permittee of unbuilt station KBL0-TV, channel 15, Rapid City, South Dakota; and (c) other responsive filings.[1]

2. Mrs. Duhamel is Chairman of the Board of Duhamel and owns 52 percent or 14 shares of its 27 shares of issued voting stock. Of the other 13 shares of voting stock, William Duhamel owns nine shares (33 percent) and Peter A. Duhamel, Mrs. Duhamel's other son, owns three shares (11 percent). The other single share of stock (4 percent) is owned by Jacquelyn C. Duhamel, wife of William. She votes this share together with her husband. William, Peter and Jacquelyn Duhamel serve as officers of Duhamel.

3. By the subject applications, Mrs. Duhamel seeks Commission approval to establish a separate power of attorney over eight of her shares in each of her sons. While the power of attorney is irrevocable, she will retain beneficial ownership of her sixteen shares of stock during her lifetime. Thus, should this application be approved, William Duhamel would acquire *de jure* control of the licensee corporation by owning and/or voting 14 shares (52 percent). Also, Mrs. Duhamel has indicated in the application that, sometime in the future, William and Peter Duhamel will each receive the eight shares of stock in Duhamel over which each possesses a power of attorney.

4. The applications also indicate that William and his brother Peter A. Duhamel, have attributable interests in South Dakota Cable, which operates cable systems located within the Grade B contours of the subject television station, KOTA-TV, Rapid City, South Dakota. William Duhamel has stated that, within a two-year period, he will resign all of his officerships and directorships with Duhamel Cable, Inc., as well as reduce his ownership interests in it below a five percent level, if the applications are approved by the Commission. Peter Duhamel has also stated that he will similarly reduce his ownership interest in Duhamel Cable, Inc., to a level below five percent, should the applications be granted. Since the issues raised by Midcontinent in its petition to deny relate to the question of cross ownership of cable and television interests, the Commission's staff requested ownership information regarding South Dakota Cable. The following was submitted and is uncontested by Midcontinent.

5. South Dakota Cable is presently owned by Duhamel Cable, Inc. (50 percent) and by Midcontinent Cable Company (50 percent).[2] The officers of South Dakota Cable are split between Midcontinent Cable Company's principals and Duhamel Cable, Inc.'s principals. The positions of President and Senior Vice President are rotated annually between the principals of Duhamel Cable, Inc. and Midcontinent Cable Company. The officers, directors and shareholders of Duhamel Cable, Inc. are:

Helen S. Duhamel, Chairman of the Board, Director
William F. Duhamel, Sr., President, Treasurer, Director, 11%
Marguerite D. White, Vice President, Treasurer, Director, 17%
Kathleen A. Duhamel, 19%
William F. Duhamel, Jr., 19%
Peter A. and Lois G. Duhamel, 17%
H. Kathleen Duhamel, 17%

William Duhamel, Sr., Marguerite White, Peter Duhamel and H. Kathleen Duhamel are children of Helen Duhamel. William Duhamel, Jr. and Kathleen Duhamel are children of William Duhamel, Sr.

6. The cross ownership of cable and television interests by Mrs. Duhamel and William Duhamel predate the Commission's prohibition, Section 76.501(a)(2), adopted in 1970, and Congress's prohibition against the creation of such cross interests. See Section 613(a)(2) of the Cable Communications Policy Act of 1984 (Cable Act), which has been incorporated as Section 533(a) in the Communications Act. Section 76.501(a)(2) of the Commission's Rules provides that:

> (a) No cable television system (including all parties under common control) shall carry the signal of any television broadcast station if such system directly or indirectly owns, operates, controls, or has an interest in:
>
> * * * *
>
> (2) A TV broadcast station whose predicted Grade B contour, computed in accordance with §73.684 of Part 73 of this chapter, overlaps in whole or part the service area of such system (i.e., the area within which the system is serving subscribers).

Section 613(a) of the Cable Act provides that:

> It shall be unlawful for any person to be a cable operator if such person, directly or through 1 or more affiliates, owns or controls, the licensee of a television broadcast station and the predicted grade B contour of such station covers any portion of the community served by such operator's cable system.

PETITION

7. Midcontinent, permittee of unbuilt station KBLO-TV, Rapid City, South Dakota, has filed a petition to deny the subject applications.[3] Midcontinent contends that, since William Duhamel will acquire control of a television licensee, and since he has an attributable cable interest, questions are raised regarding compliance with the cross-ownership proscription set forth in the Cable Act of 1984 and Section 76.501 of the Commission's Rules. While William and Peter Duhamel have indicated their willingness to sever their attributable interests in Duhamel Cable, Inc. within a two-year period, Midcontinent asserts that no information has been submitted regarding to whom the stock will be sold, how much will be sold, whether William Duhamel will retain any rights or powers in the stock he intends to divest, or the relationship, if any, between William Duhamel and the recipient of the stock. Midcontinent argues that, since the Cable Act absolutely prohibits cross ownership of cable and television interests and makes no provision for Commission waiver of the statute, the Commission must be certain that there is no potential violation of this prohibition. Thus, Midcontinent maintains that the applications must be denied because they are fatally deficient of necessary information.

OPPOSITION

8. William Duhamel asserts that all legitimate concerns about the proposed transfer have been covered by his and his brother's plan to divest their attributable interests in the cable systems, which will be accomplished within a two-year period. William Duhamel states that he and his family have been involved in broadcasting in South Dakota for over thirty years and that those cable interests located within the Grade B contour of KOTA-TV were in existence before the Commission prohibited such cross interests. William Duhamel also contends that Midcontinent's expectation that all of the details of the proposed divestiture must be worked out prior to receiving Commission approval of the subject transaction is unreasonable. While he is uncertain as to how the divestiture will be accomplished, William Duhamel does not believe that this uncertainty is evidence of any intent not to divest his interests or to otherwise deceive the Commission. To demonstrate his good intentions, William Duhamel has indicated his willingness to provide information to Midcontinent and the Commission as it becomes available.

DISCUSSION

9. In *Golden West Associates, L. P.*, 59 RR2d 125 (1985), we were confronted with the same question when we considered the sale of station KTLA-TV, Los Angeles, California, to Tribune Broadcasting Company (Tribune). At that time, Tribune controlled cable systems located within the Grade B contour of KTLA-TV. In view of the television/cable cross-ownership prohibition, Tribune requested that it be permitted a period of 18 months, from the date of consummation of its television acquisition, to achieve compliance with Section 76.501 of the Commission's Rules and Section 613 of the Cable Act. Since Congress intended to do no more than codify Section 76.501, we determined that Congress had taken into account, when it enacted Section 613, past administrative actions under Section 76.501, where the Commission permitted divestiture of conflicting interests within reasonable period of time when the public interest was served. *Id.* at 131-32. We believe that the situation presented here is no different from that which we considered in connection with Tribune's request, except that the Duhamels have sought a twenty-four month divestiture period. In that regard, while Tribune had to divest itself of four cable systems and did submit a basis for the time period requested, the Duhamels have not shown why twenty-four months are needed to dispose of their attributable interests. On the other hand, there is no need to require immediate divestiture. The need to sell is a result of events outside the control of the licensee; that is, the declining health of Mrs. Duhamel. Further, we are advised that William Duhamel is the person who is relied upon to represent the Duhamel interests in the ownership and operation of South Dakota Cable. Therefore, "a reasonable transition period," as requested by the applicant, is needed for the transfer of the minority interests involved here. In these circumstances, we believe that a six-month period, from the time of consummation of this transaction, is appropriate to effectuate the orderly disposition of their interests.

10. Turning to Midcontinent's request for more specific information, it is clear that both William and Peter Duhamel will have to sell enough stock to bring each of them below an attributable level and that the stock will have to be sold to persons whose media interests, if any, would not violate the Commission's multiple ownership rules or the Communications Act. We note, moreover, that recently we conditionally granted Midcontinent a construction permit for unbuilt station KBLO-TV upon its representation that it would divest itself of its cable interests, located within the station's Grade B contour, before the station began operating. Midcontinent was not required to disclose any of the same kinds of information which it now seeks to require the Duhamels to provide. *See Midcontinent Broadcasting Company*, above. We see no reason for requiring the disclosure of such information here.

11. In view of the foregoing, we find that the petition filed by Midcontinent has failed to raise any substantial and material question of fact to establish that a grant of these applications would be inconsistent with the public interest. We further find that the applicants are fully qualified and that a grant of these applications, as conditioned, will serve the public interest, convenience and necessity.

12. Accordingly, IT IS ORDERED, That the petition to deny, filed by Midcontinent Broadcasting Company, IS DENIED.

13. IT IS FURTHER ORDERED, That the applications transferring control of Duhamel Broadcasting Enterprises, from Helen S. Duhamel to William F. Duhamel, Sr., ARE GRANTED, subject to the condition that, no later than six months from the date of consummation of this transaction: (a) William F. Duhamel, Sr. will resign all of his

officerships and directorships with Duhamel Cable, Inc., he will reduce his 11 percent ownership interest in Duhamel Cable, Inc. to a nonattributable level, and he will sever all of his connections with South Dakota Cable; and (b) Peter Duhamel will reduce his 17 percent ownership interest in Duhamel Cable, Inc. to a nonattributable level.

14. Finally, copies of this Memorandum Opinion and Order shall be sent certified Mail-Return Receipt Requested to the parties to this proceeding by the Mass Media Bureau.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

FOOTNOTES

[1] As a preliminary matter, we have determined that Midcontinent has standing in this proceeding. *See F. C. C. v. Sanders Bros. Radio*, 309 U.S. 470 (1940). It should be noted that, while Midcontinent is presently the permittee of KBLO-TV, a full-service station, the permit for which was granted January 13, 1987, *see Midcontinent Broadcasting Company*, 2 FCC Rcd 210 (1987), it has operated channel 15, in Rapid City, as a translator station since October of 1979.

[2] Midcontinent Cable Company is a wholly owned subsidiary of Midcontinent Corporation, which also owns Midcontinent, the petitioner.

[3] We note that Midcontinent's parent must divest its 50 percent interest in South Dakota Cable before KBLO-TV becomes operational. *See* Midcontinent Broadcasting Company, 2 FCC Rcd 210 (1987). Midcontinent also controls KELO, KELO-FM and KELO-TV, Sioux Falls, South Dakota; KDLO-TV (satellite), Florence, South Dakota; KPLO-FM and KPLO-TV (satellite), Reliance, South Dakota; KDLO-FM, Watertown, South Dakota; and WTSO and WZEE(FM), Madison, Wisconsin. Midcontinent also has interests in numerous other cable systems. Its interest in South Dakota Cable is the only media interest it has in common with the Duhamel Family.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

A Closed Circuit Test of the
National-Level Interconnecting
Systems and Facilities and
Program Origination Channels
of the Emergency Broadcast
System.

ORDER

Adopted: February 19, 1988; Released: February 29, 1988

By the Managing Director:

1. The Commission has received a request from the Federal Emergency Management Agency and the White House Communications Agency to conduct a Closed Circuit Test of the National-Level interconnecting systems and facilities of the Emergency Broadcast System (EBS) during the week of March 7, 1988.

2. This request has been coordinated with the major radio networks by Mr. Brian Cady of CBS Inc.

3. Coordinated arrangements have been made with the White House Communications Agency, the Federal Emergency Management Agency, the major Radio Broadcast Networks (ABC, AP Radio, CBS, MBS, NBC, NPR, United Stations and UPI Audio) and the American Telephone and Telegraph Company (AT&T).

4. Accordingly, pursuant to authority delegated to the Managing Director in his capacity as Defense Director, IT IS ORDERED that a Closed Circuit Test of the EBS be conducted during the week of March 7, 1988, in accordance with Section 73.962 of the Rules.

5. Authority for the adoption of this action is contained in Section 1, 4(i), 4(o), and 303(r) of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS COMMISSION

Edward J. Minkel
Managing Director

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-46

In the Matter of

Amendment of Section 73.202(b),	RM-5919
Table of Allotments,	RM-6103
FM Broadcast Stations.	
(Fountain and Pueblo, Colorado)	

NOTICE OF PROPOSED RULE MAKING

Adopted: January 27, 1988 **Released: March 1, 1988**

By the Chief, Allocations Branch:

1. Before the Commission for consideration are two separately-filed petitions for rule making. The first, filed by Dr. Ronald A. Johnson (Johnson), seeks the allotment of Channel 241C2 to Pueblo, Colorado, as that community's eighth FM service (RM-5919). The second proposal, filed by Express Communications (EC) seeks the allotment of Channel 241A to Fountain, Colorado, as that community's first local broadcast service (RM-6103). Each petitioner expressed an intention to apply for the channel if it is ultimately allotted to their respective community of interest.

2. A staff engineering study reveals that Channel 241C2 can be allotted to Pueblo, (population 101,686),[1] in Pueblo County (population 125,972), in conformity with the minimum spacing standards[2] contained in Section 73.207(b) of the Commission's Rules. [3] Conversely, Channel 241A can be allotted to Fountain (population 8,324), in El Paso County (poulation 309,424), consistent with the provisions of Section 73.207(b) of the Commission's Rules, provided the transmitte site therefor is restricted to an area 4.0 kilometers (2.5 miles) south[4] of the community to avoid short-spacing to an application (BPH870227OF), filed by Station KISF(FM) (Channel 241C1), Greeley, CO, to upgrade its facilities to maintain Class C status.[5]

3. Channel 241 cannot be allotted to both communities since they are separated by a distance of 45.9 kilometers whereas 163 kilometers is required between Class A-C2 co-channels. Therefore, the proposals must be comparatively considered. Therefore, we shall provide each proponent an opportunity to demonstrate in comments herein why its community should be preferred. In this regard, the parties should be guided by the allocation criteria set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). Addi- tionally, the proponents may wish to determine if other channels may be available to resolve the existing conflict.

4. In view of the above, the Commission seeks comments on the optional proposals to allot Channel 241 to either Pueblo or Fountain, Colorado, respectively. Accordingly, the Commission proposes to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, as follows:

City	Channel No. Present	Proposed
Fountain, Colorado	--	241A
	or	
Pueblo, Colorado	245C,255C, 260C, 264C1, 283C1, 296A, 300C1	241C2,245C, 255C, 260C, 264C,[6] 283C1, 296C2,[7] 300C1

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 21, 1988,** and reply comments on or before **May 6, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Dr. Ronald A. Johnson
1665 Briargate Blvd.
Colorado Springs, CO 80918
(Petitioner - Pueblo, CO)

David Honig, Esq.
6032 Ocean Pines
Berlin, MD 21811
(Counsel for Petitioner - Express Communications)

7. Additionally, the Secretary of the Commission SHALL SEND a copy of this *Notice* to the licensee of Station KAVI-FM, Rocky Ford, CO, as follows: Two A, Inc., 27591 Hwy. 71, Rocky Ford, CO 81067; and to the licensee of Station KKFM(FM), Colorado Springs, CO, as follows: Citadel Associates Limited Partnership, 411 Lakewood Circle, Colorado Springs, CO 80910, to determine their relocation plans as indicated in footnote 3, *supra*.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

9. For further information concerning this proceeding, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] Population figures given herein were taken from 1980 United States Census data, unless otherwise indicated.

[2] Reference coordinates used for Channel 241C2 at Pueblo are as follows: 38-14-24; 104-36-18.

[3] The required spacing separations are met based upon Station KAVI-FM, Rocky Ford, CO, moving from Channel 240A to Channel 238C1, pursuant to Docket 85-382, as well as the directive issued to Station KKFM(FM), Colorado Springs, CO, to move from Channel 243C to Channel 251C pursuant to Docket 81-819. These stations will be served a copy of this Notice of Proposed Rule Making so that they may indicate their respective plans in this regard.

[4] Reference coordinates utilized for Channel 241A at Fountain, CO, are: 38-38-50; 104-41-43.

[5] Additionally, the Fountain, CO proposal meets the spacing requirements based upon the directive issued to Station KKFM(FM), Colorado Springs, Colorado, as described in footnote 3, supr a.

[6] Channel 264C has been requested in RM-5844. Since that petitioner seeks an upgrade in its present Class C1 facilities, the proposal will be considered in a separate Notice of Proposed Rule Making.

[7] Channel 296C2 has been requested in RM-6115. Since that petitioner also seeks an upgrade in its present Class A facilities, the proposal will be considered in a separate Notice of Proposed Rule Making.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-48

In the Matter of

Amendment of Section 73.202(b),	RM-5772
Table of Allotments,	RM-5941
FM Broadcast Stations.	
(Arlington and McKinney, Texas)	

NOTICE OF PROPOSED RULE MAKING AND ORDER TO SHOW CAUSE

Adopted: January 27, 1988 **Released: March 1, 1988**

By the Chief, Allocations Branch:

1. Before the Commission for consideration are two mutually exclusive petitions for rule making. The first petition was filed by Statewide Broadcasting, Inc. (Statewide), licensee of Station KHYI(FM), Channel 235C1, Arlington, Texas, seeking the substitution of full Class C Channel 235 for Channel 235C1 and the modification of its license to specify operation on the higher class channel. In order to accomplish this substitution, Statewide suggested a channel substitution at McKinney, Texas, for Station KWPL(FM), from Channel 237A to Channel 295A. Statewide states that its request would further the public interest by permitting a more efficient utilization of spectrum resources, and by providing the public more adequate broadcast services. The second petition was filed by Isaac H. Blevins and Jack Sellmeyer d/b/a McKinney Broadcasting Company (McKinney Broadcasting), requesting the allocation of Channel 295A to McKinney, Texas, as that community's second local FM service.

2. The channel substitution at Arlington can be made in compliance with the Commission's minimum distance separation requirements, at the current site of Station KHYI(FM),[1] if Channel 295A is substituted for Channel 237A at McKinney. Therefore, we are herein issuing a *Show Cause Order* to The Oaks Broadcasting of Texas, Inc., licensee of Station KWPL(FM), seeking comments as to why its license should not be modified to specify operation on Channel 295A in lieu of Channel 237A.

3. Channel 295A at McKinney is short spaced to vacant Channel 294C at Granbury, Texas. To eliminate this deficiency we shall propose the imposition of a site restriction of 32.4 kilometers (20.1 miles) southwest of Granbury for the vacant allotment.[2] The coordinates used for the restricted site at Granbury are 32-15-07 and 98-02-48. Channel 295A at McKinney can be used at the current site of Station KWPL(FM) (33-15-49 and 96-35-54). Channel 295A can also be allotted to McKinney as a second FM service with a site restriction of 1.1 kilometer (0.7 miles) northwest of the city. [3] This restriction is necessary in order to avoid a short spacing to Station KTLR-FM, Channel 296A at Terrell, Texas.

4. Commission's policy requires that the party benefitting from the channel change reimburse the affected station. Statewide states its willingness to reimburse Station KWPL(FM) for reasonable expenses incurred in modifying its facilities to operate on the new channel proposed herein.

5. The proposals are mutually exclusive because both petitioners are seeking to utilize Channel 295A at McKinney, Texas, either as a substitute channel to accommodate the Arlington upgrade or as a new service which would deny the Arlington upgrade as requested. Therefore, we shall provide each proponent an opportunity to demonstrate in comments herein why its community should receive the allotment. In this regard, the parties should be guided by the allocation criteria set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982), indicating the priorities of first or second aural service, first local and other public interest factors.

6. As requested, we shall propose to modify the license of Station KHYI(FM) to specify operation on the higher class co-channel, Channel 235C. In accordance with Section 1.420(g) of the Rules, we shall not accept competing expressions of interest nor require that Statewide demonstrate the availability of an additional equivalent channel at Arlington.

7. We believe the public interest would be served by the proposal to upgrade the FM facilities at Arlington, Texas or provide an additional FM service at McKinney, Texas. Accordingly, the Commission proposes to amend the FM Table of Allotments, Section 73.202(b) of the Rules, with regard to the following communities:

	Channel No.	
City	Present	Proposed
Arlington, Texas	235C1	235C
McKinney, Texas	237A	295A
OR		
McKinney, Texas	237A	237A, 295A

8. IT IS ORDERED, That pursuant to Section 316 of the Communications Act of 1934, as amended, The Oaks Broadcasting of Texas, Inc., licensee of Station KWPL(FM), McKinney, Texas, SHALL SHOW CAUSE why its license should not be modified to specify operation on Channel 295A in lieu of Channel 237A.

9. Pursuant to Section 1.87 of the Commission's Rules, The Oaks Broadcasting of Texas, Inc., may, not later that **April 21, 1988,** request that a hearing be held on the proposed modification. If the right to request a hearing is waived, The Oaks Broadcasting of Texas, Inc., may not later than **April 21, 1988,** file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on The Oaks Broadcasting of Texas, Inc., to furnish additional information, designate the matter for hearing, or issue, without further proceedings, designate the matter for hearing, or issue, without further proceedings, as *Order* modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, The Oaks Broadcasting of Texas, Inc., will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order*

will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

10. IT IS FURTHER ORDERED, That the Secretary of the Commission SHALL SEND by Certified Mail, Return Receipt Requested, a copy of this *Order* to the following: The Oaks Broadcasting of Texas, Inc., 4849 Greenville Avenue, Dallas, Texas 75206; and First Heritage Broadcasting Corp., 900 N.E. 9th Street, Mineral Wells, TX 76067.

11. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

12. Interested parties may file comments on or before **April 21, 1988,** and reply comments on or before **May 6, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Eric L. Bernthal, Esquire
James F. Rogers, Esquire
Steven E. McCowin, Esquire
Latham & Watkins
1333 New Hampshire Avenue, N. W.
Suite 1200
Washington, D. C. 20036
(Counsels for Statewide Broadcasting, Inc.)

J. S. Sellmeyer, P. E.
P. O. Box 205
McKinney, Texas 75069
(McKinney Broadcasting Company)

13. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

14. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is

directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] The coordinates are 32-35-22 and 96-58-10.

[2] Previously the Commission issued a construction permit to Station KFII(FM) at Granbury. The permit was issued at a site which clears this proposal. However, the permit was subsequently cancelled and an application for review of the Commission's action is pending. A copy of this Notice will be served on Station KFII(FM) notifying it of this proposed site restriction for the Granbury allotment.

[3] The coordinates are 33-12-20 and 96-37-33.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-49

In the Matter of

Amendment of Section 73.202(b), RM-5866
Table of Allotments,
FM Broadcast Stations.
(Gladstone, Michigan)

NOTICE OF PROPOSED RULE MAKING

Adopted: January 26, 1988 **Released: March 1, 1988**

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a petition for rule making filed by David C. Schaberg (petitioner), requesting the substitution of FM Channel 288C1 for Channel 288A at Gladstone, Michigan. Petitioner also requests the modification of its construction permit (BPH 850114MF) for Station WWTM, Channel 288A, to specify Channel 288C1.

2. Petitioner requests that his permit for Channel 288A be extended for the duration of this rule making.[1] If the substitution of channels is granted as requested, petitioner states his intention to have the station constructed and program tests commenced within a nine month period.

3. We believe petitioner's proposal warrants consideration. Channel 288C1 can be allocated to Gladstone, Michigan, in compliance with the minimum distance separation requirements of the Commission's Rules provided there is a site restriction 31.9 kilometers north of the community to avoid a short spacing to Channel 287C1, Station WRLO-FM, Antigo, Wisconsin and Channel 289C, Station WAPL-FM, Appleton, Wisconsin.[2] Since Gladstone is located within 320 kilometers (200 miles) of the common U.S.-Canadian border, concurrence of the Canadian government is required for this allotment. We shall also propose to modify the construction permit of Station WWTM, Channel 288A, to specify operation on Channel 288C1 in accordance with Section 1.420(g) of the Commission's Rules.

4. In order to provide a wide coverage area station for the Gladstone, Michigan area, the Commission PROPOSES TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, as follows:

	Channel No.	
City	Present	Proposed
Gladstone, Michigan	288A	288C1

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 21, 1988,** and reply comments on or before **May 6, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

David C. Schaberg
P.O. Box 11101
Lansing, Michigan 48901

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will

be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] The application for extension of time (File No. BPH-870831JV) filed by David C. Schaberg was granted on December 29, 1987, for a period of six months.

[2] The site coordinates for Channel 288C1 are 46-07-50; 86-56-52.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-50

In the Matter of

Amendment of Section 73.202(b), RM-6105
Table of Allotments,
FM Broadcast Stations.
(Ontonagon, Michigan)

NOTICE OF PROPOSED RULE MAKING

Adopted: January 26, 1988 **Released: March 1, 1988**

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a petition for rule making filed by Ontonagon County Broadcasting, Inc. (petitioner), requesting the substitution of FM Channel 266C2 for Channel 252A at Ontonagon, Michigan. Petitioner also requests modification of the license of Station WONT(FM), Channel 252A, to specify operation on the higher class channel. Petitioner filed information in support of the proposal and stated its intention to construct the necessary facilities for operation on Channel 266C2.

2. We believe petitioner's proposal warrants consideration. The channel can be allocated in compliance with the minimum distance separation requirements and used at the current site of Station WONT(FM).[1] Canadian concurrence is required since Ontonagon, Michigan is located within 320 kilometers (200 miles) of the common U.S.-Canadian border.

3. We shall propose to modify the license of Station WONT(FM), Channel 252A, as requested by the petitioner, to specify operation on Channel 266C2. However, in conformance with Commission policy, should another party indicate an interest in the Class C2 allotment, the modification could not be implemented unless an additional equivalent channel is also allocated. *See* , *Modification of FM and TV Station Licenses*, 98 FCC 2d 916 (1984).

4. In order to provide a wide coverage area station for the Ontonagon, Michigan area, the Commission PROPOSES TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, as follows:

	Channel No.	
City	Present	Proposed
Ontonagon, Michigan	252A	266C2

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 21, 1988,** and reply comments on or before **May 6, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Richard S. Becker
James S. Finerfrock
Richard S. Myers
Becker & Finerfrock, P.C.
1915 Eye Street, N.W.
Eighth Floor
Washington, D.C. 20006
(Counsel for the petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the

Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters. 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] The coordinates for this site are 46-44-49 and 89-11-27.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-51

In the Matter of

Amendment of Section 73.202(b), RM-6076
Table of Allotments,
FM Broadcast Stations.
(Evans, Georgia)

NOTICE OF PROPOSED RULE MAKING

Adopted: January 26, 1988 **Released: March 1, 1988**

By the Chief, Allocations Branch:

1. The Commission herein considers a petition for rule making filed by Evans Broadcasters (petitioner), which seeks the allotment of Channel 299A to Evans, Georgia, as its first FM service. Petitioner stated its intention to apply for use of the channel, if allotted. Channel 299A can be allotted to Evans in compliance with the minimum distance separation requirements of Section 73.207(b) of the Rules using city coordinates (33-33-21 - 82-07-36).

2. Accordingly, in order to provide a first FM channel to Evans, Georgia, comments are invited on the proposal to amend the FM Table of Allotments, (Section 73.202(b) of the Commission's Rules) with regard to the following community:

	Channel No.	
City	Present	Proposed
Evans, Georgia	—	299A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **April 21, 1988,** and reply comments on or before **May 6, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Stanley G. Emert, Jr.
Watson, Erickson & Emert
2108 Plaza Tower
Post Office Box 131
Knoxville, Tennessee 37901
(counsel for petitioner)

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in

reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-47

In the Matter of

Amendment of Section 73.202(b),	RM-5977
Table of Allotments,	RM-6148
FM Broadcast Stations.	
(Oakdale and Tioga, Louisiana)	

NOTICE OF PROPOSED RULE MAKING

Adopted: January 27, 1988 **Released: March 1, 1988**

By the Chief, Allocations Branch:

1. The Commission has before it for consideration two mutually exclusive petitions for rule making. The first petition was filed by Cavaness Broadcasting, Inc. (Cavaness), licensee of Station KISY(FM), Channel 252A, Tioga, Louisiana, seeking the substitution of Channel 253C2 for Channel 252A at Tioga and modification of the station license to specify operation on the higher class channel (RM-5977). The second petition was filed by Oakdale Limited Partnership (Oakdale Limited), licensee of Station KICR-FM, Channel 285A at Oakdale, Louisiana, requesting the substitution of Channel 254C2 for Channel 285A and modification of its license accordingly (RM-6148).[1] Both parties submitted information in support of their proposals.

2. The proposals are mutually exclusive because they are 80.2 kilometers apart whereas a distance of 130 kilometers (81 miles) is required for Class C2 adjacent allotments. Therefore, the channel can only be allotted to one of the communities in compliance with the minimum distance separation requirements of Section 73.207 of the Commission's Rules. We shall seek comments on alternative proposals for providing a first wide coverage area FM service to either Oakdale or Tioga.

3. The substitution can be made at either Oakdale or Tioga consistent with the Commission's minimum separation requirements with a site restriction. Channel 254C2 at Oakdale (30-51-42 and 92-36-52) requires a site restriction of 7.5 kilometers (4.6 miles) northeast of the community in order to avoid a short spacing to Station KHYS(FM), Channel 253C1, Port Arthur, Texas. Channel 253C2 at Tioga (31-28-59 and 92-21-16) requires a site restriction 13.1 kilometers (8.1 miles) northeast of Tioga in order to avoid short spacing to Station KHYS-FM at Port Arthur, Texas, operating on Channel 253C1.[2]

4. We shall provide each proponent an opportunity to demonstrate in comments herein why its community should receive the allotment. In this regard, the parties should be guided by the allocation criteria set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). In particular, both petitioners should submit a gain area showing indicating the population and square miles of the increased area to be served. The proposal providing the greater increase in service would be preferred. *See Greenup, Kentucky and Athens, Ohio*, 2 FCC Rcd 4319 (1987).

5. As requested, we shall propose to modify the licenses of Stations KICR-FM (Channel 285A), Oakdale, and KISY(FM) (Channel 252A), Tioga, to specify operation on the higher class adjacent channel, Channel 254C2 and Channel 253C2, respectively. In accordance with Section 1.420(g) of the Rules, we shall not accept competing expressions of interest nor require that Cavaness, the petitioner at Tioga demonstrate the availability of an additional equivalent channel. However, since the proposal is for a non- adjacent channel at Oakdale, should another party indicate an interest in the Class C2 allotment the modification could not be implemented unless an additional equivalent channel is also allotted. *See Modification of FM and TV Stations Licenses*, 98 FCC 2d 916 (1984).

6. We believe the public interest would be served by the proposal to provide either Oakdale or Tioga with its first wide coverage area FM service. Accordingly, the Commission proposes to amend the FM Table of Allotments, Section 73.202(b) of the Rules, with regard to the following communities:

	Channel No.	
City	Present	Proposed
Oakdale, Louisiana	285A	254C2
OR		
Tioga, Louisiana	252A	253C2

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

8. Interested parties may file comments on or before **April 21, 1988,** and reply comments on or before **May 6, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Stuart A. Shorenstein, Esq.
Friedman, Leeds, Shorenstein
& Armenakis
655 Third Avenue
New York, New York 10017
(Counsel for Cavaness Broadcasting, Inc.)

Daniel F. Van Horn, Esq.
Arent, Fox, Kintner, Plotkin
& Kahn
1050 Connecticut Avenue, N.W.
Washington, D. C. 20036-5339
(Counsel for Oakdale Limited Partnership)

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table

of Allotments, Section 73.202(b) of the Commission's Rules. *See Certificationthat Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

10. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] Oakdale Limited initially advanced its proposal as a counterproposal in Lafayette, Louisiana, 2 FCC Rcd 7303 (1987). In view of the decision therein, we believe the public interest would be served by considering the proposal as stated here. We note that Oakdale Limited subsequently filed a petition for reconsideration of the Commission's action in the aforementioned proceeding Lafayette, Louisiana, supra.

[2] An application is pending for Station KHYS(FM) to change sites and operate as a full Class C facility, which, if granted, would permit the allotment of Channel 254C2 at Oakdale or 253C2 at Tioga without the imposition of a site restriction.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Revisions to AT&T Communications Tariff F.C.C. No. 1, Hospitality Network Service

Transmittal No. 1046

MEMORANDUM OPINION AND ORDER

Adopted: January 21, 1988; Released: January 22, 1988

By the Deputy Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On October 26, 1987, AT&T Communications (AT&T) filed Transmittal No. 1046 proposing tariff revisions to implement Hospitality Network Service (HNS), a new AT&T switched network offering designed principally for utilization by hotels, hospitals, universities and other traffic aggregators with a high volume of both "1+" and "0+" calling.[1] According to AT&T, HNS would meet such users' unique requirements for a combination of 1+ service, which they resell to their "guests" and use for internal administrative purposes, and 0+ service, which "guests" use to make operator assisted and calling card calls.

2. HNS would provide customers who have monthly traffic volumes of at least 4 million minutes *each* of 1+ and 0+ calling a rate of 18 cents per minute for 1+ calls,[2] and a payment ranging from 5 cents to 30 cents for each 0+ call made from the customer's premises. The customer must commit for a one year period to deliver to AT&T at least 4 million minutes of interstate 0+ traffic per month[3] and to pay the monthly recurring charge for 1+ calling regardless of its actual 1+ calling volume. The payment from AT&T to its customers for 0+ calls placed from the customer's premises will range from 5 cents to 30 cents per call depending on (1) the grade of service the customer agrees to provide; (2) whether it uses Touch-Tone type phones; [4] and (3) its calling volume. In addition, to receive any compensation, customers must provide information in each guest room regarding how to make a call using the AT&T network. The better the grade of service, the higher the payment.

3. AT&T states that HNS is needed to meet intense competition from interexchange carriers and alternative operator service (AOS) providers who are providing 1+ calls and offering operator services to the hospitality industry at reduced rates and paying commissions for each 0+ call. AT&T D&J at 2. AT&T states that the payment to the customer recognizes the value the hotel (or other traffic aggregator) provides in sending these calls to AT&T and compensates the customer for the expenses it incurs in connection with this traffic. *Id. at 6.* AT&T further states that the 18 cent rate is set to recover the full costs of providing 1+ calling and that,MTS *Guidelines Order*,[5] HNS will increase net revenues for the switched service category on a present value basis by $24 million for the 12-month period after the effective date of the service and by $106.5 million within 36 months. AT&T states that HNS fully complies with the cost support requirements of Section 61.38 of the Commission's Rules and the requirements of the *MTS Guidelines Order*. AT&T also claims that the rate is justified by competitive necessity under the Commission's *Volume Discount Practices Order*.[6] AT&T notes that its regular 1+ and 0+ services will remain available separately at currently tariffed rates.

II. SUMMARY OF PETITIONS

4. Petitions to reject or to suspend and investigate were filed by Intellical, Inc., Central Corporation, US Sprint Communications Company, MCI Telecommunications Corporation, International Telecharge, Inc. and Telesphere International, Inc. In general, the petitioners contend that HNS is unreasonably discriminatory, that the proposed service unreasonably restricts resale, and that the proposed charges bear no relation to AT&T's costs. Petitioners contend further that the 0+ payments are an unlawful rebate under Section 203(c)(2) of the Communications Act. Section 203(c)(2) provides that "no carrier shall . . . refund or remit by any means or device any portion of the charges" specified in its tariffs. Petitioners also allege that AT&T has failed to make a realistic assessment of the cross-elasticity of HNS with other AT&T services and that its failure to do so undermines AT&T's assertion that HNS meets the "net revenue" test. The petitioners also state that competition in the AOS area is only now developing and that HNS would enable AT&T to assert its market dominance to "lock up" the hospitality industry before true competition can develop.

5. MCI argues that HNS is unreasonably discriminatory under Section 202(a) of the Communications Act because it is simply a bundling of existing AT&T switched services for the benefit of select customers at preferential prices. MCI Petition, filed Nov. 10, 1987, at 1-2. It states that there is no reason why 1+ and 0+ services should be bundled together, no reason why the 0+ compensation should be limited to only those customers who generate a stated volume of 1+ calls and no reason why a customer who only wants AT&T for one switched service should have to use AT&T for both services. MCI also argues that the bundled rate structure effectively prevents resale even though the tariff itself contains no restrictions on resale or sharing.[7] MCI Petition at 4; *see also* Telesphere Petition, filed Nov. 10, 1987, at 8.

6. The petitioners also contend that the 0+ payments are an unlawful rebate under Section 203(c)(2) of the Act because the effect of these "commissions" is to lower the effective rate paid by the customer for the 1+ MTS service below the tariffed level. For example, International Telecharge states that HNS requires the customer to commit to deliver 4 million minutes of both 1+ and 0+ usage to AT&T per month. In return, the customer receives a discounted rate for the 1+ traffic and a commission on 0+ traffic delivered to AT&T. Thus, it continues, the 1+ and 0+ discount and commissions are "inextricably linked" with the result that the commission payments serve to lower MTS rates for the 1+ calls below the tariffed level and possibly below AT&T's costs. International Telecharge Petition, filed Nov. 10, 1987, at 3-4. That petitioner also argues that the commission plan violates

the Commission's decision in *Opportunity Calling* [8] because commission payments would result in AT&T not receiving its full tariffed rate for the 1+ service. *Id.* at 7.

7. A number of petitioners argue that competition for alternative operator service is a recent development and that competitors face high barriers to entry that seriously constrain their ability to compete with AT&T effectively in this area.[9] They point to specific obstacles, such as the inability of AOS to verify Bell Operating Company calling cards as well as state regulatory limitations, in concluding that AT&T is not subject to "intense" competition in this area. In addition, Telesphere International states that AT&T markets its 0+ service to hotels through off-tariff reciprocal agreements which provide that AT&T employees will use the hotel's facilities as long as the hotel continues to subscribe to AT&T's 0+ service.[10] It states that AT&T has threatened subscriber hotels with loss of future AT&T business in cases in which the subscriber has considered an alternative provider of 0+ services. Telesphere concludes that this demonstrates AT&T's overwhelming market power and the absence of real competitive necessity for the HNS offering.

8. Finally, the petitioners assert that AT&T has failed to document the cross-elasticity effects of implementing HNS even though AT&T states that its prospective customers currently use existing AT&T services. (AT&T states there will be no migration from other AT&T services. AT&T Description and Justification at 22.) For example, Intellical states that AT&T's failure to consider the effect of HNS on MTS and WATS service undermines the validity of its net revenue calculations such that there is a substantial question as to whether introduction of HNS would increase AT&T's net revenue. Intellical Petition, filed Nov. 10, 1987, at 6-8.[11] US Sprint claims that the profitability of HNS is likely overstated since AT&T understated both access minutes, and marketing costs, and provided for no start-up costs. US Sprint Petition, filed Nov. 10, 1987, at 4-6. Sprint also states that the termination liability set forth in the tariff (a customer remains liable for the monthly recurring charge to the end of the one-year term) appears to bear no relation to AT&T's costs in connection with an early termination and that the proposed nonrecurring installation charges of $100 per subscriber and $10 per subscriber location do not appear to be cost based. *Id.* at 7; *see* Intellical Petition at 14.

9. In its reply, AT&T argues that many vendors, established interexchange carriers such as Sprint and MCI and more than a dozen AOS companies have recognized the unique needs of the hospitality industry and now offer custom-tailored 0+ and 1+ services with more attractive terms than AT&T's proposed HNS offering. AT&T Reply, filed Nov. 23, 1987, at 2.[12] AT&T repeats that it is faced with the imminent loss of four substantial customers, accounting for annual revenues of over $118 million, if it does not meet their needs for reduced rates for 1+ calling and a compensation plan for 0+ calling. *Id.* AT&T also argues that resale of HNS is being actively pursued, that the petitioners have done nothing more than speculate and second-guess AT&T's "well-founded demand, revenue and cost projections" and that they have made no showing warranting suspension or rejection.

III. DISCUSSION

10. The proposed HNS tariff represents a two staged reduction of MTS rates for qualifying HNS subscribers. A subscriber that commits to deliver 4 million minutes of both 1+ and 0+ usage to AT&T per month receives a discounted rate for 1+ traffic billed directly to the subscriber and resold. The subscriber also receives a payment, ranging from $.05 to $.30 per call, for 0+ traffic delivered from its premises to AT&T. Under the HNS proposal, a subscriber is not eligible for the payment unless it also uses AT&T's 1+ MTS service; *i. e.*, unless it subscribes to the HNS bundled offering. As a result, the HNS subscriber pays less than the tariffed rate for 1+ MTS calls because it receives payments for the 0+ calls portion of the HNS service offering.[13] It appears, therefore, based on our review of Transmittal No. 1046 and the responsive pleadings, that the HNS 0+ payment plan may be an illegal rebate of tariffed charges in violation of Section 203(c)(2) of the Act. We conclude that suspension of the proposed tariff revisions for the full statutory period is warranted while we investigate this matter in order to reach a definitive conclusion.

11. We recognize that Section 203(c) has not been interpreted to prohibit every carrier action that might be described as a rebate.[14] We note, however, that the HNS plan appears to differ from the promotional credits at issue in *Opportunity Calling*. That case involved a nontariffed AT&T promotional program in which AT&T customers receive a dollar for dollar credit that can be used for purchases of selected merchandise and services from participating vendors. AT&T billed and received from its customers its full tariffed rates. It represented that it made no payment to any participating vendors and that those entities absorb the full cost of any discount afforded through the program. In the case of HNS, however, it appears that AT&T is returning a portion of the subscriber's 1+ tariffed charges based on the subscriber's delivery of 0+ calls. An investigation is warranted to determine whether this practice violates Section 203(c)(2). A suspension is warranted because we have a substantial doubt that this proposed tariff complies with the statute.

12. The petitioners have also raised a number of other issues which may warrant further investigation. We will designate any additional issues to be investigated, and establish a pleading schedule, in a subsequent Order.

IV. ORDERING CLAUSES

13. Accordingly, IT IS ORDERED, pursuant to Section 204(a) of the Communications Act, 47 U.S.C. § 204(a), that the revisions to Tariff F.C.C. No. 1, Hospitality Network Service, proposed by AT&T Communications in Transmittal No. 1046 ARE SUSPENDED for five months from the present scheduled effective date.

14. IT IS FURTHER ORDERED, pursuant to Section 204(a) of the Communications Act, that an INVESTIGATION IS INSTITUTED concerning the rates and rate structure for Hospitality Network Service proposed in AT&T Transmittal No. 1046 as set forth herein. A docket number, pleading cycle and designation of any additional investigation issues will be established at a later date.

15. IT IS FURTHER ORDERED that AT&T Communications shall issue a supplement no later than **January 26, 1988** indicating that the proposed tariff revisions ARE SUSPENDED. For this purpose, Special Permission No. 88-41 is assigned.

16. IT IS FURTHER ORDERED that the Motion to Late File Petition of Intellicall, Inc., filed Nov. 12, 1987, and the Motion to Accept Additional Pleading of Telesphere International, Inc. ARE GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Carl D. Lawson
Deputy Chief, Common Carrier Bureau

FOOTNOTES

[1] For purposes of inclusion in the HNS program, 0+ calling equals Customer Dial Calling Card, Operator Station and Person to Person third party, collect, and calling card billed.

[2] For the first 4 million minutes of traffic, the effective 18 cent per minute rate is composed of a monthly recurring charge of $360,000 and a usage sensitive charge of 9 cents per minute. For any 1+ traffic above 4 million minutes per month, the 18 cent per minute rate applies with no additional monthly charge. The customer remains liable for the fixed monthly charge if it terminates service before the one-year term expires.

[3] A shortfall charge of 4 cents per minute would be assessed for each minute of use below the customer's commitment to deliver 4 million minutes per month of 0+ traffic.

[4] The tariff does not describe the customer premises equipment (CPE) performance parameters that are contemplated by the use of the phrase "Touch Tone-type" equipment.

[5] Guidelines for Dominant Carriers' MTS Rates and Rate Structure Plans, CC Docket No. 84-1235, FCC 85-540, released Oct. 17, 1985.

[6] Private Line Rate Structure and Volume Discount Practices, 97 FCC 2d 923, 984 (1984).

[7] The petitioners also allege that HNS unreasonably restricts customer choices by its requirement that the customer select AT&T as its preferred carrier or arrange for AT&T's identifier code to be inserted in each dial station call because this prevents a large user from using multiple carriers to meet its total communications needs. MCI Petition at 5-6.

[8] In the Matter of AT&T Opportunity Calling, ENF 84-26 and E-4-28, Mimeo 3628, released Apr. 4, 1985.

[9] *See , e. g.,* Petition of Telesphere International, at 3-7; Petition of Central Corporation, filed Nov. 10, 1987, at 4-8.

[10] *See* Supplement to Petition To Reject of Telesphere International, Inc., filed Jan. 15, 1988. Telesphere's Supplement was accompanied by a Motion To Accept Additional Pleading. We will grant the motion.

[11] Intellical also questions AT&T's assumption that its MTS and WATS revenue for targeted HNS customers would fall to zero if its customers all deserted to AOS providers, because many such AOS providers subscribe to AT&T services for long-distance transmission.

[12] AT&T maintains that the competitive necessity test is met regardless of whether 0+ and 1+ services are both provided by a single vendor or by two different vendors. It asserts that many combinations of separate 0+ and 1+ services meet the same customer needs as a single offering and are available at prices equal to or more favorable than HNS. *See* AT&T Reply at 14, D&J at 16-17 and App. F.

[13] AT&T itself characterizes the tariffed compensation for 0+ calling in its HNS service as an integral component of a combined tariffed offering that is designed, in part, to encourage the HNS customer to use AT&T 1+ service. It states that the 0+ compensation for HNS could be viewed as a practice affecting the charges for the 1+ service used by the HNS customer. *See* In the Matter of AT&T's Private Payphone Commission Plan, ENF 87-19, Opposition of American Telephone and Telegraph Company to Supplement to Petition for Declaratory Ruling, filed Dec. 7, 1987.

[14] *See , e.g., Opportunity Calling, supra.*

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Commission Requirements for
Cost Support Material
To Be Filed with 1988 Annual
Access Tariffs

ORDER

Adopted: July 27, 1987; Released: July 30, 1987

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. This Order sets forth certain requirements for summary cost support material that local exchange carriers (LECs) must file to support their annual access charge tariff filings on or before October 2, 1987 in partial fulfillment of Section 61.38 of the Commission's Rules.[1] Specific data formats are detailed in the Tariff Review Plans (TRPs), which are appended to this Order.[2] The TRPs display basic cost and demand information in a manner that is consistent for all LECs, thereby aiding review by this Bureau and interested parties of the LECs' required annual access tariff filings. The TRPs have served this purpose effectively in past years.

A. *Background*

2. The background concerning the development of previous TRPs can be found in our *1987 TRP Order*. Based on our continued experience in reviewing the LECs' interstate access tariffs and in evaluating the usefulness of the TRP data provided by the LECs in previous filings, it is necessary to modify last year's information requirements in certain respects. In addition, recent changes in Commission rules and other factors have necessitated changes in the information we are requiring. As a result of these considerations, discussions were held with a United States Telephone Association (USTA) Task Force concerning the 1988 TRP, and a draft of the 1988 TRP for larger LECs was prepared by the USTA Task Force according to specifications of Bureau staff.

3. On May 1, 1987, the Western Union Telegraph Company (Western Union) filed a petition requesting that a public procedure be established to formulate the cost support requirements for the larger LECs for the 1988 annual access tariff filing. In a Public Notice dated May 29, 1987, we invited informal public comments on the draft 1988 TRP.[3] As discussed in more detail below, we are incorporating certain changes, suggested by the commenters, into the TRP. As a result of this proceeding and further evaluation of the draft 1988 TRP by the Bureau, we have adopted a final 1988 TRP that we believe will be of value in the analysis of the 1988 annual access filings.

B. *Definition of Test Year and Past Year Cost of Service Period*

4. Our Rules require that carriers submit in support of their proposed rates a cost of service study for the most recent 12-month period (past year cost of service study or PYCOS) and a study containing a projection of costs for a representative 12-month period (test year). [4] For the 1988 annual access tariff filing, all carriers should use a PYCOS year of July 1, 1986 - June 30, 1987 and a test year of calendar year 1988, the period for which the proposed rates are scheduled to be effective.

C. *Definition of Tier 1 and Tier 2 Companies*

5. As we have noted previously, the LECs' ability to provide cost, demand and revenue data varies depending on the size of the company.[5] In the *January 25, 1985 Public Notice* and the *1987 TRP Order*, we divided the LECs into two categories, Tier 1 operating companies and Tier 2 operating companies, and devised a different set of summary data requirements for each. Tier 1 companies were defined as those companies having more than $100 million in total company regulated revenues, as determined by the 1984 Annual Statistical Volume II of the USTA Statistical Reports of Class A & B Telephone Companies for the year 1983. Tier 2 companies were defined as companies that have total company annual regulated revenue less than $100 million and that file their own access tariffs with the Commission. We are adopting the same definitions for the 1988 TRP. The Tier 1 TRP, including charts and documentation, is displayed in full in Attachment A. Tier 2 companies are required to file Tier 2 TRPs. The Tier 2 TRP is displayed in full in Attachment B.[6] As before, only companies that do not concur in the National Exchange Carrier Association's (NECA) traffic-sensitive tariff are required to file TRPs. A list of Tier 1 companies subject to the requirements of the TRP is contained in the Tier 1 TRP. A list of Tier 2 companies subject to the Tier 2 TRP is contained in the Tier 2 TRP.

II. TIER 1 TARIFF REVIEW PLAN

6. The 1988 Tier 1 TRP charts are similar to those used in the 1987 TRP, although almost all charts have been revised to improve their usefulness and to enhance their relevance to the test year. In addition, we have reduced the amount of information required in some charts. In this section we describe the more important changes.

A. *Western Union Petition and Comments*

7. Western Union recommended various changes to improve the support data for the 1988 annual access tariff filing in its petition. Other commenters on the USTA draft also recommended changes. Many of the recommendations are, however, more applicable to the Section 61.38 support data that the LECs submit outside of the TRP than to the TRP itself. Many of the most important recommendations concern the provision of highly disaggregated cost and demand data. We believe that such data fall outside the scope of the TRP, which is intended as a summary of each carrier's extensive support data. We have not yet decided the extent to which modifications of such non-TRP support data may be necessary. In the near future, we plan to address this issue in a separate Order, which may specify additional support data requirements.

8. We believe, however, that certain recommendations that have been made are relevant to the TRP and would improve its usefulness. Thus, in formulating the Tier 1 TRP, we have incorporated the following recommenda-

tions in the Western Union petition or associated pleadings: (1) the revenue categories in the cost charts have been clarified (Charts COS-1 and COS-2); (2) the prospective cost charts will include a hypothetical display of costs on a Part 31, Part 67, and non-conformed Part 69 basis[7] (Charts COS-1 and COS-2); (3) the common line cost category has been further disaggregated (Chart COS-2); (4) the incremental impact of various changes in separations rules has been included (Chart COS-4); (5) additional data for outside plant investment have been included (Chart COS-6); (6) the treatment of equal access expense has been clarified (Chart COS-7); (7) demand response and bypass data have been included for traffic-sensitive demand (Chart DMD-1); (8) the special access demand categories have been expanded (Chart DMD-4); and (9) a summary of rate and associated cost and demand data has been added (Chart REV-1).

B. ***Other Substantial Changes in the TRP***

9. The annual 1988 access tariff filings implement a number of important revisions in Commission Rules.[8] The scope of these revisions will make it difficult to compare historical figures, which are reported under the old rules, with projections, which are based upon the new rules. It would be difficult and burdensome, however, for the LECs to recalculate their historical results to demonstrate what they would have been under the new rules. In order to assess the impact of the rule changes, we are requiring the LECs to undertake the less burdensome task of projecting costs for the test year under both the old and new rules. Charts COS-1(P)(32) and COS-2(P)(32) will show projected test year costs under the new rules in Part 32, 36 and 69,[9] and Charts COS-1(P)(31) and COS-2(P)(31) will show hypothetical test year costs under the old rules in Part 31, 67 and 69. In addition, other modifications have been made in Charts COS-1 and COS-2, and Chart COS-4 has been revised so that it displays items relevant to the 1988 test year.

10. Chart DMD-1 has been significantly streamlined. For common line demand, this chart requires a monthly time-series of minutes of use (MOU) data derived from revenues as reported in the most current view of NECA's common line pool revenue results. For traffic-sensitive demand, the chart requires a quarterly time-series of traffic-sensitive demand MOU derived from individual carriers' revenues. The revenues on which both common line and traffic-sensitive time-series are based should reflect all major out-of-period billing adjustments. Therefore, these time-series should accurately depict actual monthly or quarterly usage since the implementation of access charges in 1984. Chart DMD-1 also requires that the LECs provide common line and traffic-sensitive data, on a billed-only basis, for AT&T usage and total interexchange carrier usage.

C. ***Requirements for Future TRPs***

11. Finally, we wish to give the LECs advance notice of certain future TRP requirements. In the *1987 TRP Order*, we directed the LECs to "grade" the projections that they made in the July 2, 1985 annual access filing by making side-by-side comparisons between the projections and the actual results. When the LECs file annual access tariffs this year, however, actual results will be available for only a part of 1987, which was the test year for the last annual filing. Since it would not be useful to compare full year projections with actual results for part of the year, we have modified Chart COS-5. A side-by-side comparison of 1987 projected and actual results will be required for the next annual filing.

12. Also, it is our understanding that certain usage data are difficult to derive from historical records as they are currently kept but would be significantly easier to derive in the future, if companies were aware that provision of such data would be a future requirement. For the 1989 annual access filing, we plan to require the provision of special access usage data to reflect the following categories of users: (1) AT&T; (2) the Other Common Carriers (OCCs); and (3) Total Users. Data beginning in July 1987 should be kept so as to reflect readily these individual categories. For the 1988 TRP, we require only that special access usage data be provided for Total Users (Chart DMD-4). Also, for the 1989 annual access filing, we plan to require the provision of common line and traffic-sensitive usage data, derived from revenues for which all major out-of-period billing adjustments have been made, for the following categories of users: (1) AT&T; and (2) Total Users. This requirement will be added to the current requirement that the LECs provide billed-only data for AT&T and Total Users. Beginning in July 1987, data should be kept so as to reflect readily major out-of-period billing adjustments for AT&T and Total Users. For the 1988 TRP, however, we require merely that common line and traffic-sensitive data for AT&T and Total Users be displayed on a billed-only basis (Chart DMD-1).

III. TIER 2 TARIFF REVIEW PLAN

13. The Tier 2 TRP is, again this year, an abbreviated version of the Tier 1 TRP. This year, however, we require the Tier 2 LECs to provide somewhat more data than in the past. One of the most important purposes of the additional data is to help us analyze the effect of the various changes in the Commission's Rules and other changes on Tier 2 LECs' test year projections. In developing the Tier 2 TRP, we have attempted to avoid imposing data requirements that Tier 2 LECs would find unduly burdensome. We are therefore refraining from requiring the smaller Tier 2 LECs to provide much of this extra information. We are distinguishing the smaller Tier 2 LECs from the larger Tier 2 LECs by applying the definition of small telephone company study areas adopted in the *Small Telephone Company Order*.[10] In that Order, the Commission decided that, starting with tariff filings effective in January 1989, companies would be allowed to follow a streamlined access filing procedure for study areas with fewer than 50,000 access lines provided that the companies are not included in NECA's subsets 1 and 2.[11] For purposes of this Order, the larger Tier 2 companies are designated Tier 2A companies and the smaller Tier 2 companies, covered by the definition contained in the *Small Telephone Company Order*, are designated Tier 2B companies. The Tier 2A companies should have sufficient resources to provide, without undue difficulty, the extra data that we need for our review. The COS charts are the most important example of the extra data that we are requiring of the Tier 2A LECs. Tier 2A companies must provide the same cost data as that contained in the Tier 1 COS-1 and COS-2 charts. Tier 2B companies, however, need only complete abbreviated cost charts that are similar to the ones contained in last year's TRP. The complete

data requirements for both Tier 2A and Tier 2B companies are contained in the Tier 2 TRP, appended as Attachment B to this Order.

IV. NECA

14. We will not detail specific summary data requirements for NECA in this Order. As discussed below, we are requesting the USTA Task Force to aggregate much of the TRP data for Tier 1 LECs and Tier 2A LECs. These data, in aggregate form, should be useful for evaluation of the reasonableness of NECA's proposed common line rates. The level of detail contained in the Tier 1 plans should provide guidance to NECA in formulating the summary data for the common line pool that it should include in its filing.

15. NECA's traffic-sensitive pool consists of hundreds of small companies. For those companies, it would be difficult to provide the detail required by the Tier 1 and Tier 2 TRPs. Therefore, we refrain from requiring that NECA provide traffic-sensitive summary data as required by the Tier 2 plan. The level of detail required by the Tier 2 plan should provide guidance to NECA in formulating the summary data that it should include with its filing. The fact that we refrain from requiring specific summary data from NECA for its common line and traffic-sensitive pools does not exempt NECA from providing support data in complete compliance with Section 61.38 of the Commission's Rules.

V. IMPLEMENTATION OF RULE CHANGES AND OTHER CHANGES

16. We recognize that substantial rule changes and other changes embodied in the annual 1988 access filings will create difficulties for the LECs in preparing their filings and for the Commission and interested parties in reviewing the filings. The TRPs have been designed to summarize and highlight the effect of these changes and, therefore, should facilitate review of the filings. The LECs should also address, however, the nature and impact of these changes as completely as possible in their non-TRP support material.

17. These changes are further complicated by the fact that a number of relevant proceedings have not been completed. As a general rule, the access charge computations and supporting cost material including TRPs should reflect rules and requirements that are in effect on the tariff filing date or that have been adopted with an effective date on or before January 1, 1988. Carriers normally should not assume the adoption of changes proposed in notices of proposed Rule Making, petitions for reconsideration, petitions for Rule Making, petitions for waiver, etc. in the absence of final action. If such final action occurs after the tariff filing date and the Commission elects to make the change effective during all or part of the access year, a supplemental transmittal will be required. For purposes of the 1988 annual access tariff filing, LECs should base their test year estimates on Commission decisions that will have been adopted by September 1, 1987. We anticipate that the Commission will act on the *Part 69 Conformance Notice* and the *Marketing Expense Reconsideration* [12] by that time.

18. We also recommend that carriers assume that the Commission will not adopt a final order relating to rate base and net income[13] before the October tariff filing. Therefore, carriers should not implement adjustments that reflect a departure from current requirements.[14] The Bureau believes, however, that capitalization of certain leases is already required by the Part 32 rules.

19. The Bureau also believes that the Part 32 rules will require implementation of the Financial Accounting Standard Board's (FASB) Statement of Financial Accounting Standards No. 87 in the absence of Commission action requiring or permitting a departure from those standards.[15]

20. The general rule that proposed access charges should reflect rules and requirements that are in effect on the tariff filing date or that have been adopted with an effective date on or before January 1, 1988 has not been applied to depreciation changes, because such changes have customarily been implemented on a retroactive basis. We have accordingly accepted projections based upon reasonable expectations of depreciation rates that will be authorized for the access year. For purposes of the 1988 filing, the Bureau will accept computations that are based upon the assumption that the Commission will adopt the five-year amortization of reserve deficiencies as recommended in the *Staff Report* [16] for those companies for which the Commission prescribes depreciation rates.

21. Although final action on carrier manuals to implement Part 64 rules relating to the segregation of unregulated activity costs[17] is not likely to occur before the October tariff filing, carriers should use the Part 64 manuals that they will be submitting on or before September for purposes of the October filing. Supplemental transmittals of subsequent midcourse corrections may, of course, be required to reflect any modifications that may be required in subsequent orders.

VI. RATE ANOMALIES

22. In reviewing proposed access rates, the Commission pays special attention to rates which appear anomalous, *e. g.*, large rate changes or increases in rates associated with access categories that already earn at or above the maximum allowable rate of return. We strongly urge LECs to examine their proposed rates and indentify those rates which might appear anomalous. If, after review, the LEC is confident that the proposed rate is justified, it should provide this justification as part of its support material in order to clarify the specific basis for the rates and reduce the likelihood that investigation or suspension will prove necessary.

VII. GENERAL INSTRUCTIONS

23. The following general instructions apply to both Tier 1 LECs and Tier 2 LECs. Except for the sections entitled "Geographic Aggregation," "Display of Detail and Industry Aggregation" and "General Supplementary Material," the following general instructions also apply to NECA.

A. *Errata*

24. As we have noted in the past, the submission of incorrect cost support data and the subsequent filing of errata seriously detract from the ability of the Commission and interested parties to evaluate the reasonableness of proposed rates within the notice period.[18] In the *1987 TRP Order*, we required that any erratum be accompanied by a request for special permission to permit the transmittal to

take effect on the originally scheduled effective date. Further, the Order stated that, if such a request were refused, it would be required that proposed rates supported by the erratum be refiled upon adequate notice, regardless of whether these rates differ from the rates as originally proposed. We continue to believe that the special permission requirement is a reasonable means of encouraging improvement in the quality of data submitted in the annual access filings. We also believe it facilitates the tariff review process. Although many errata were submitted during last year's annual access tariff proceeding, the requirement that special permissions accompany errata allowed the errata to be incorporated properly and expeditiously into the record.

25. For these reasons, we will continue to require that carriers file a request for special permission with any erratum that is filed to correct errors or otherwise revise their access tariff support data. If such a request is refused, the carrier must refile the proposed rates that are supported by the erratum, regardless of whether these rates differ from the rates as originally proposed. These requirements pertain to all data filed in support of proposed access charges, including all data that are required by the TRP. Except for supplementary data, discussed below, all TRP data must be filed on October 2, 1987 and must be accurate and complete. Similarly, the supplementary data must be accurate and complete as of the dates on which these data are due.

26. We also wish to remind carriers that they are under a legal obligation to correct any erroneous data discovered in the TRP or other cost support data.[19] We note that last year there was at least one instance of a company's neglecting to file an erratum to its 1987 access tariffs even though the company was aware that its TRP data contained substantive inaccuracies. Also, in several instances, carriers failed to correct substantive errors in a timely manner.

B. ***Certification***

27. NECA and the LECs must certify the accuracy of historical and test year data that are submitted in support of proposed rates by including a signed statement that the support data are true, correct and complete. Certification is required for all data submitted in support of proposed rates, including all data that are required by the TRP. The text of the certification is the same as that adopted in the *1987 Waiver Order*.[20] This text is reproduced as Appendix A to this Order. The certification should be displayed as the last page in the binder containing each company's TRP.

28. Pending before the Commission are proposed Part 69 revisions which require that the carriers' support data be consistent with the data submitted to NECA for purposes of developing common line rates.[21] If those revisions are adopted before the October tariff filing, carriers must certify compliance with the revisions and specify the date of the submission of their data to NECA to demonstrate that the data were submitted to NECA in a timely manner.

C. ***Geographic Aggregation***

29. All information required by the TRP must be displayed on the level of geographic aggregation to which the particular LEC's proposed rates pertain. In addition, if the tariff rates are based on data from a number of study areas or operating companies, levels of aggregation associated with each study area (state) and operating company should be provided. Carriers should not aggregate the data above the tariff filing level.

D. ***Display of Data and Industry Aggregation***

30. In order to facilitate review by the Commission and interested parties, we require that all Tier 1 and Tier 2 LECs provide TRP information, for levels of aggregation discussed above, on computer "floppy disks." The specific disk formats that are required are discussed in the Tier 1 and Tier 2 TRPs. In addition, in order that the Commission and interested parties may evaluate the national impact of proposed rate changes, we request that the USTA Task Force provide an aggregation of all Tier 1 and Tier 2A TRP data in both hardcopy and disk format.[22]

E. ***Supplementary Material***

31. As with the 1987 TRP, we will allow the LECs to submit certain information required by the TRP as a supplement after the date of the annual 1988 access tariff filings. Accordingly, Chart COS-4 (Interstate Cost Data: Adjustments to 1988 Prospective Test Year) need not be filed until October 16, 1987. Also, information concerning common line rates or revenues that are needed to complete Charts DMD-5, RTE-1 and REV-1 may be submitted as revisions to those charts no later than October 9, 1987.

F. ***Waivers***

32. If carriers find that they are unable to provide data required by the TRP, they may file applications for waiver. These waiver applications must demonstrate good cause for reporting a different or lower level of detail and indicate how these deficiencies will be corrected. Carriers are strongly encouraged to comply with the requirements. Omission of individual data items or entries, without request for waiver, is unacceptable. One reason that compliance with the full TRP requirements continues to be so important is that omission of any single data entry by any subject Tier 1 or Tier 2A company will jeopardize the accuracy of the aggregate industry displays. If a carrier determines, however, that it will be unable to meet these requirements, it must file an application for waiver with the Commission no later than August 14, 1987. Each carrier requesting any waiver of the requirements of this Order or of any other Commission Rule or Order applicable to the 1988 access tariff filings shall include all such requests in this single application.

33. It has come to our attention that some of the Tier 2B LECs may not be able to provide PYCOS data for the period July 1, 1986-June 30, 1987 at the level of detail specified in the Tier 2B cost charts (Charts COS 1 through 3) without duplicating annual cost studies undertaken ordinarily at another time of year. Accordingly, we hereby grant a general waiver to allow such Tier 2B companies to use a PYCOS period of calendar year 1986 for the COS charts. These carriers should clearly specify the PYCOS period. We note, however, that summary cost and earning statistics for interstate access for the first half of 1987 should be available, although at a lesser level of detail than the COS charts, for these and other LECs on September 30, 1987 as FCC Form 492 (Rate of Return Report).

VI. CONCLUSION; PROCEDURAL REQUIREMENTS

34. This Order will be sent directly to all carriers that will file their own access tariffs on October 2, 1987, and a copy will also be sent to NECA. In addition, copies of the relevant Tier 1 or Tier 2 TRP (Attachment A or Attachment B, respectively), along with blank reporting formats, will be sent directly to Tier 1 and Tier 2 companies.[23] A copy of the Order and all attachments will be available for inspection at the Tariff Division, Room 518, 1919 M Street, N.W., Washington, D.C. While the Commission will distribute copies of the main text of this Order, those parties wishing to obtain copies of Attachments A and B, or the associated blank formats, can do so only through the Commission's contractor for public records duplication, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington. D.C. 20037, (202) 857-3800.

35. Each company should submit its TRP separately from other portions of its tariff filing. Each company should provide an extra copy of the TRP to the Accounting and Audits Division, Suite 812, 2000 L Street, N.W., Washington, D.C. 20036 on or before October 2, 1987. The Commission will provide further details regarding the procedures applicable to the October 2 tariff filing in a future release.

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

APPENDIX A

CERTIFICATION

I am (title of certifying officer). I hereby certify that I have overall responsibility for the preparation of all data supporting the (name of the carrier) Annual 1988 Access Tariff Revisions and that I am authorized to execute this certification. Based upon information provided to me by employees responsible for the preparation of, or for supervision of the preparation of, the data submitted in support of the rates contained in the proposed tariff, I hereby certify that the data have been examined and reviewed and are true, correct and complete.

Date
Name
Title

(Persons making willful false statements in this report form can be punished by fine or imprisonment under the provisions of the U.S. Code, Title 18, Section 1001.)

FOOTNOTES

[1] 47 C.F.R. § 61.38. Compliance with the requirements set forth in this Order does not ensure approval of carriers' access charge tariffs or replace total cost support material requirements. Carriers remain obligated to provide adequate cost support for their proposed access charges. *See* Commission Requirements for Cost Support Material To Be Filed with Access Tariffs on October 3, 1986, Mimeo No. 6356, released Aug. 15, 1986 (*1987 TRP Order*).

[2] The TRPs should be associated with the calendar year for which the tariffs will be effective. Thus, the TRPs discussed in this Order, which will accompany the October 2, 1987 access tariff filings scheduled to become effective on January 1, 1988, will be referred to as the 1988 TRPs.

[3] Preliminary Draft of Information Request To Be Submitted by Local Exchange Carriers in Support of Annual 1988 Access Tariff Filings Prepared at Request of Common Carrier Bureau; Bureau Establishes Schedule for Informal Comments, Mimeo No. 3428, Released May 29, 1987 (*May 29 Public Notice*). Comments in response to our *May 29 Public Notice* were filed by the Ad Hoc Telecommunications Users Committee (Ad Hoc), American Telephone and Telegraph Company (AT&T), BellSouth Corporation (BellSouth), MCI Telecommunications Corporation (MCI), Southern New England Telephone (SNET), Western Union, and jointly by Capital Cities/ABC, Inc., CBS, Inc. and National Broadcasting Company Inc. (the Networks).

[4] *See* 47 C.F.R. § 61.38(b)(1).

[5] *See* Commission Requirements for Cost Support Material To Be Filed with Access Tariffs on March 1, 1985, Public Notice, Mimeo No. 2133, released Jan. 25, 1985 (*January 25, 1985 Public Notice*).

[6] To the extent that Tier 2 companies concur with tariffs filed by Tier 1 companies, modification of the TRPs set forth herein may be necessary. The Tier 1 companies with which Tier 2 companies concur should contact the Tariff Division in order to tailor the TRPs to the exigencies of their situation. Tier 2 companies which concur in a traffic-sensitive tariff, other than the National Exchange Carrier Association (NECA) tariff, solely with other Tier 2 companies should file a consolidated Tier 2 TRP.

[7] 47 C.F.R. Part 31, Part 67, and Part 69.

[8] *See* Revision of the Uniform System of Accounts and Financial Reporting Requirements of Class A and Class B Telephone Companies (Parts 31, 33, 42 and 43 of the FCC Rules), CC Docket No. 78-196, FCC 86-221, released May 15, 1986, 51 Fed. Reg. 43493 (Dec. 2, 1986) (*Part 32 Order*), which established a new Part 32 of the Commission's Rules; MTS and WATS Market Structure, Ammendments of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Federal-State Joint Board, CC Docket Nos. 78-72, 80-286, and 86-297, FCC 87-134, released May 1, 1987, 2 FCC Rcd 2639 (1987) (*Part 36 Order*), which established a new Part 36 of the Commission's Rules; and Amendment of Part 69 of the Commission's Rules and Regulations, Access Charges, To Conform It with Part 36, Jurisdictional Separations Procedures, CC Docket No. 87-113, released May 1, 1987, 2 FCC Rcd 2673 (1987) (*Part 69 Conformance Notice*), which proposes to conform Part 69 of the Commission's Rules to Part 36 of the Commission's Rules.

[9] 47 C.F.R. Part 32, Part 36, and Part 69.

[10] Regulation of Small Telephone Companies, CC Docket No. 86-467, FCC 87-186, released June 29, 1987 (*Small Telephone Company Order*).

[11] *See* 47 C.F.R. § 69.602 for a definition of the subsets that vote separately for NECA directors.

[12] *Part 36 Order, petitions for recon. filed*, June 18,1987.

[13] *See* Amendment of Part 65 of the Commission's Rules to Prescribe Components of the Rate Bases and Net Incomes of Dominant Carriers, *Notice of Proposed Rule Making*, CC Docket No. 86-497, released Jan 16, 1987, 2 FCC Rcd 332 (1987) (*Rate Base Notice*).

[14] Many of the most important requirements are contained in American Telephone and Telegraph Company, 64 FCC 2d 1 (1977) (*Docket 19129 Phase II Decision), recons. in part*, 67 FCC 2d 1429 (1978) (*Docket 19129 Reconsideration* Ord er) and American Telephone and Telegraph Company, 86 FCC 2d 221 (1981) (Docket 79-63 Decision).

[15] See Part 32 Order. See also US West and NYNEX, Request to Implement New Pension Accounting for Calendar Year 1987, Memorandum Opinion and Order, AAD 7-1572, released Apr. 27, 1987, 2 FCC Rcd 2464 (1987).

[16] Report on Depreciation, Tax Reform and Capital/Expense Changes, Public Notice, released Apr. 17, 1987. If the final decision differs materially from those recommendations, mid-course correction filings may be necessary.

[17] See Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities; Amendment of Part 31, the Uniform System of Accounts for Class A and Class B Telephone Companies To Provide for Nonregulated Activities and To Provide for Transactions Between Telephone Companies and Their Affiliates, Report and Order, CC Docket No. 86-111, FCC 86-564, released Feb. 6, 1987.

[18] See 1987 TRP Order at para. 17.

[19] See Letter from the Chief, Common Carrier Bureau, to all LECs planning to file access tariffs on October 3, 1986, dated July 25, 1986.

[20] Annual 1987 Access Tariff Filings, Petitions for Waivers of Filing Requirements, Memorandum Opinion and Order, Mimeo No. 6945, released Sept. 16, 1986 (1987 Waiver Order).

[21] See Part 69 Conformance Notice at p. 2674.

[22] Except for information relating to percentages or factors, no data entries for which there is incomplete information should be aggregated. Aggregations of incomplete data should be noted.

[23] The blank reporting formats have been reduced in size for ease of printing and reproduction. Companies may wish to enlarge these formats for internal use for data entry. All companies must, however, submit their data in the exact size and format as the blank reporting formats.

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 87-447

In the Matter of

Amortization of Depreciation
Reserve Imbalances of Local
Exchange Carriers

REPORT AND ORDER

Adopted: January 13, 1988; Released: January 21, 1988

By the Commission: Commissioner Dennis dissenting and issuing a separate statement at a later date.

I.INTRODUCTION

1. In the *Notice of Proposed Rule Making* adopted in this proceeding on October 2, 1987 (the *Notice),* [1] this Commission tentatively concluded that action was needed to cure the imbalances in the depreciation reserves of the local exchange carriers (LECs) that are subject to orders of this Commission prescribing depreciation rates. We described therein the actions which we have taken during the 1980s to address the issue of carriers reserve imbalances, and noted the general success of those actions. We stated, however, that the LECs still are subject to a large reserve deficiency, and that additional action is required to insure that our depreciation policies continue to provide a balance between the rates charged consumers and the timely recovery by carriers of the capital devoted to providing service. We tentatively concluded that a reasonable response to the industry's reserve problem would be a one-time, five-year amortization of the imbalances in the LECs depreciation reserves. We invited parties to comment on that proposal. We also invited interested persons to comment upon the effective date for any such amortization. For the reasons set forth below, we establish a five-year amortization of the reserve imbalances of all LECs subject to Commission depreciation prescriptions that have not been authorized to amortize in prior orders. We require such amortization period to commence on January 1, 1987, unless a waiver is granted.[2]

BACKGROUND

2. This Commission's authority to prescribe depreciation rates is derived from Section 220(b) of the Communications Act of 1934, as amended. [3] Depreciation rates are designed to allow carriers to recover the costs of plant and equipment over their productive lives.[4] This Commission sets the rates on a straight-line basis, whereby the annual depreciation expense for an asset is determined by dividing the net book cost of the plant and equipment (less salvage value) by the forecast remaining service life of that asset. As new information about service lives or salvage values becomes available, it is necessary to determine new rates. This Commission reviews each subject carrier's rates every three years and makes any necessary adjustments to insure that depreciation expenses accurately reflect the service life and salvage forecasts. The accuracy of such forecasts is especially important in the telecommunications industry, because depreciation expenses for the carriers we regulate is proportionately much higher than depreciation expenses for companies in other, less capital intensive industries.[5]

3. In the *Notice*, we explained how, in the late 1960s, a substantial reserve deficiency began to materialize.[6] Our initial response to the growth in the deficiency was our decision in *Property Depreciation.*[7] In that decision, we determined that we must make more realistic forecasts of service lives. We also found that the reserve deficiency could be ameliorated by carriers use of the remaining-life method of accounting.[8] We also allowed the carriers to use the equal life group method of accounting for new plant additions.[9] These changes in our policy were implemented on an industry-wide basis.

4. In 1983, this Commission again considered procedures that are available to decrease a carrier's reserve imbalance. We decided that, in some circumstances, amortization of "dying accounts" might be preferable to continued reliance on remaining-life procedures.[10] We expanded upon the use of amortizations in the *1984 Depreciation Rates Order*, which approved amortization of the reserve deficiency in nearly all of the accounts of Illinois Bell.[11] Unlike remaining-life methods, amortizations are not tied to the expected remaining life of the plant accounts. Rather, the imbalance is amortized over a specific period and recovered through the ratemaking process for those years. In the *1984 Depreciation Rates Order*, we adopted the following policy for amortization of reserve deficiencies:[12]

> Upon application by a company with the concurrence of its state commission we will entertain the amortization approach for the elimination of reserve deficits in plant on a case-by-case basis. The opinion of the state regulatory commission will be a significant factor in any decision to allow the use of amortizations, as it has been in the case of Illinois Bell.

We also directed the staff to study this procedure and recommend any necessary guidelines and reporting procedures. Consistent with these procedures, amortizations were also authorized for several companies in 1985 and 1986.[13] However, we have not approved amortizations that were not supported by the state commission that regulates the LEC requesting authority to amortize.[14]

5. Our depreciation policy changes have been successful in reducing the industry's reserve deficiency. According to a *Report* issued by our staff earlier this year,[15] the reserve deficiency for the LECs decreased from an estimated $21 billion in 1983 to an estimated $13 billion in 1986. The staff estimated that if the procedures in place are continued, the deficiency would drop to $5 billion in 1990. However, as we stated in the *Notice*, the progress in decreasing the reserve deficiency has been uneven, and the rate of decline seen earlier in the decade will not continue.[16] We also stated in the *Notice* that our policy of requiring state commission concurrence before we approved amortization of a carrier's reserve imbalance appeared to be inappropriate in light of the Supreme Court's

decision in *Louisiana Public Service Commission* v. *F.C.C.*[17] We tentatively concluded that we should further reduce the industry's reserve deficiency by use of a uniform five-year amortization, with no requirement that the carriers demonstrate state concurrence. We tentatively concluded that such action would more rapidly move carriers rates to costs, and would reduce potential risk of non-recovery that would result if the cure is prolonged during a time of rapid changes in the technological environment. Moreover, we noted that present economic conditions would allow an increase in depreciation costs without a corresponding increase in rates, due to factors such as tax reform and decreased inflation.

6. We stated that we were considering several alternative commencement dates for the proposed amortization. Parties were invited to comment on the use of January 1, 1987, January 1, 1988 or any date between those dates, at the election of the carrier.

III. SUMMARY OF PLEADINGS

7. Nineteen parties filed comments and eleven filed reply comments.[18] Our proposal was generally supported by 11 LECs[19] and USTA. NARUC supports the proposal only on the conditions that there be no increase in consumers' rates and the amortization be limited to the interstate imbalance.[20] Michigan states that amortization as an ongoing procedure is not appropriate if remaining-life procedures will perform the same function. However, it does not oppose the amortization "as a practical matter" so long as it is a one- time amortization and does not change customers rates.[21] Virginia does not oppose the amortization but states that it will continue to set amortizations on a company-by-company approach.[22] BellSouth recommends that we take actions now to reduce carriers reserve deficiencies. However, it prefers the present policy of considering amortizations individually, according to the particular circumstances in each jurisdiction, rather than use of an industry- wide amortization.

8. Eleven LECs urge us to allow the carriers flexibility in choosing an amortization commencement date. These carriers state that we should not require mandatory retroactive booking of the expenses, because carriers require flexibility if they are to have an opportunity to match depreciation expenses with revenues. PacTel states that we should adopt a January 1, 1987 effective date. If we do choose January 1, 1988, it urges that we use a four- year amortization period. Contel urges adoption of a January 1, 1988 date for carriers that have not previously filed for amortization of their deficiencies. It observes that if an earlier date is required and the carrier did not use the expense in its rate calculation, that carrier will not recover the 1987 portion of the amortization. CBT states that it is currently earning less than its authorized rate of return, and a mandated retroactive amortization would further worsen its earnings.

9. Three parties disagree with our proposal. Idaho asserts that this Commission has no need to modify our depreciation policy. It states that the combination of remaining-life procedures and the three-year represcriptions are adequate to remedy any reserve imbalances. Holler states that the amortization will adversely affect the intrastate revenue requirement because the jurisdictional separations process will assign additional costs to state jurisdictions. That action, in his view, will affect carriers other than those directly concerned because the common pooling arrangements require use of the Separations Manual for settlement of pooled results. Western Union opposes any industry-wide amortization. It states that there is no need for a change in our depreciation policy, because any imbalance problems can be remedied upon a showing that a particular amortization is needed. It disagrees with the position that amortization is required by increasing competition in the telecommunications market or to assure consistent treatment in pooling arrangements. Western Union states that our proposed policy change would benefit carriers who have shown no need for amortization, and that this benefit would be at the expense of ratepayers. If customers over the next five years bear the entire burden of eliminating the reserve deficiency, according to Western Union, two rules of ratemaking would be violated. First, such action would not match costs with revenues. Second, the amortization would effectively compel customers to contribute capital. Western Union concludes that our proposed amortization could not be implemented without increasing rates. It states that the LECs are proposing rate increases in their 1988 access rates even if the amortization is not authorized, and that the policy change would exacerbate these increases.

10. Eight LECs filed replies. Ameritech states that the reserve deficiency must be addressed now, and that amortization of the deficiency recovers expenses from customers who have already benefited from the carriers' failure to recover depreciation costs. If recovery of the expenses is deferred to future customers, rates will not reflect costs and carriers stand a greater chance that their investment will not be recovered. It disagrees that amortization represents a capital contribution by ratepayers. Finally, Ameritech states that the proposed amortization will have little adverse impact on current ratepayers, noting that for its companies the decrease due to tax reform is three times the increase in depreciation expense. BellSouth also disputes Western Union's argument that the proposed action would amount to ratepayers supplying capital, characterizing the proposed action as the collection of an overdue debt. It asserts that amortization is timely, and that spreading the deficiency over the remaining life of the assets is inconsistent with cost causation principles and the needs of today's telecommunications environment. Bell Atlantic asserts that Western Union is motivated by a desire for short-term rate reductions, and that its request for longer-term capital recovery ignores this Commission's policy of imposing costs on the cost causer.

11. GTE notes that Idaho is the only state commission in opposition, and states that Idaho is free to use its own depreciation methodology. GTE asserts that Western Union's opposition does not reflect the expertise of the Commission in this area, and that a continuation of remaining-life procedures fails to match closely the customers who pay costs and those who cause costs. It also disagrees with Western Union's position regarding ratepayer contribution to carriers capital. NYNEX disagrees with Western Union's assertion that there is no industry-wide capital recovery problem, and states that deferral of capital recovery in today's changing environment is inappropriate and generates a risk that a carrier's opportunity to recover investors§ capital will be denied. It claims that it is fair to recover the deficiency from ratepayers who have enjoyed lower capital recovery in earlier years, and that present rates and costs can be matched more quickly if recovery is accelerated. PacTel

asserts that Western Union has not demonstrated that use of remaining-life and equal life group methods will solve the industry's reserve problem. It asserts that this Commission's previous denial of amortization for Pactel is not evidence that there is no problem, because that Commission decision was based on intrastate considerations. Moreover, according to PacTel, there is a need for uniform treatment of carriers in this area. It concludes that the proposal is not unfair to present ratepayers, does not represent a contribution of capital by ratepayers, and is timely.

12. U S West also disagrees with Western Union's position that the proposal would be unfair to present ratepayers. It also states that the reserve deficiency is larger than the amount in the staff's *Report*. SW Bell states that it is timely for this Commission to recognize that there has been an underrecovery of costs, and that we have proposed to do so in a reasonable manner. It also disagrees that the proposal would require customers to contribute capital. SW Bell states that we should not, as some commenters request, impose a condition that this is a one-time amortization, because the potential for reserve deficiencies will remain. USTA states that, contrary to Western Union's position, the proposal targets capital recovery more closely to the cost-causative body of ratepayers.

13. In its reply, Western Union maintains that the carriers have made no showing that a general amortization of the reserve deficiency is required. It states that the the comments provide only "untestable generalities" about future competition for their services, and that this Commission's present practices would allow us to address any particular competitive situation on a case-by-case basis.[23] It disagrees with GTE's assertion that the reserve deficiency restrains new technology, because remaining-life procedures allow a carrier to recover its investment through depreciation charges over the useful life of the plant. It also states that the amortization is not needed to offset negative effects of the Tax Reform Act of 1986, and it disputes the carriers§ statements that under remaining-life procedures, elimination of reserve imbalances takes too long. Western Union states that the carriers do not see a need for uniformity and consistent treatment with respect to amortizing the reserve deficiency, citing their variety of positions in this regard and BellSouth's request that we maintain a flexible case-by-case approach. It further states that the carriers comments provide no assurance that the amortization could be accomplished with little or no impact on ratepayers, and that ratepayers should not be deprived of the cost savings brought about by tax reform. It states that Pacific Bell's calculation of savings shows a modest $3 million savings to its ratepayers over a 15 year period, and this savings would come at the expense of customers who take service during the five-year amortization period.[24] Finally, Western Union disagrees with those who comment that the amortization will apply only to the interstate reserve deficiency. It states that this Commission has plenary authority over carriers§ books for financial reporting purposes, and we may not initiate a scheme whereby carriers keep separate books of account for federal and state regulatory purposes.

14. Ad Hoc generally supports Western Union's position. It asserts that a "blunderbuss" approach to competition is not grounds for changing our depreciation policy; rather, use of remaining-life is adequate unless there is an imbalance in a particular account that may not be recovered. It disputes carriers arguments that amortization is needed to prevent future customers from seeking alternatives to the LECs offerings. Ad Hoc also describes several other factors which we must assess in this regard. First, it states that Congress has expressed in the Tax Reform Act of 1986 a strong preference for use of properly calculated remaining lives. It states that "It is a fundamental distortion of the regulated telephone utility's cash flow to reduce one reserve, representing excess deferred taxes, over the remaining life of assets, while increasing another reserve, the book depreciation reserve, over a fixed five-year amortization."[25] It also fears that if we adopt the proposed "price cap" procedures,[26] the LECs will be able to perpetuate the higher rates established during the amortization period after that period has ended. Accordingly, Ad Hoc recommends that we represcribe remaining-life rates rather than adopt a fixed amortization period.

IV. DISCUSSION

A. *General*

15. We instituted this proceeding as a further step in our efforts, begun in 1980, to eliminate the imbalances between carriers§ book and theoretical depreciation reserves. Our initial response to the industry's reserve problem, *Property Depreciation*, initiated a series of corrective actions designed to provide a more accurate measure of the consumption of capital in the capital intensive communications industry. Our approval of remaining-life procedures was an important and timely development of a new depreciation scheme. We recognized, however, that changes in depreciation accounting might result in sharp increases in revenue requirements.[27] We accordingly directed the staff to monitor the impact of the changes.[28] We recognized that as life estimates of plant become shorter due to new technology and the transition to a competitive environment, a failure to take corrective action would increase the impact of errors in service life estimates, causing the carriers§ reserve provisions to be inadequate.

16. None of the parties takes serious issue with the soundness of our current use of remaining-life depreciation and realistic service lives to address, on a long term basis, reserve imbalances.[29] Moreover, no party disputes our finding in the *Notice* that the current industry reserve deficiency, although smaller than when we released our decision in *Property Depreciation*, is still approximately $13 billion.[30] Only Idaho objects to our proposal to stop placing primary reliance on state regulatory commission concurrence when we consider amortizations of reserve imbalances.[31] Those parties who disagree generally with our proposal dispute the need to change our current procedures to address the reserve deficiency, claim amortization is not an equitable response, and assert that the proposed amortization would violate established ratemaking principles.

B. *The Need to Address the Reserve Deficiency Now*

17. After analyzing the record before us herein, we affirm the tentative conclusions and rationale set forth in the *Notice* and we conclude that this Commission should act now to eliminate the large current industry- wide reserve deficiency faster than present procedures allow. The LECs rates will reflect actual costs more quickly if we establish an amortization program now rather than rely

solely on remaining-life procedures. As we stated in the *Notice*, so long as the present large reserve deficiency exists, carriers rates will not accurately reflect the costs incurred in providing service. It is in the public interest to eliminate this mismatching of costs and rates as quickly as possible so that carriers and ratepayers do not make decisions based on inaccurate data and assumptions. Moreover, as the *Notice* observed, amortization of the current $13 billion deficiency now provides for a better balancing of the LECs§ need for speedy recovery of capital costs against the potential rate impact for ratepayers, compared with reliance on remaining-life procedures alone. As we observed in the *Notice*, present economic conditions, namely, low inflation and decreases in revenue requirements resulting from changes in the tax laws,[32] permit more rapid reduction of the present large reserve deficiency with less rate impact. Thus, the upward pressure on rates is minimized, and the LECs rate bases will be significantly lower at the end of the amortization period. Finally, our initiation of action now will eliminate the risks of economically inefficient pricing signals associated with extending a cure for the large deficiency into the future. The remaining lives of certain assets are very long, and the reserve imbalance in an account would not be eliminated until long after the average remaining life has expired (because the average remaining life is composed of lives both longer and shorter than the average).[33] Because the LECs operate in a rapidly changing technological environment, we cannot be certain that the marketplace forces which the LECs may face in the future would permit recovery of their reserve deficiency at that time. It would not be prudent for us to ignore these potential risks when present conditions allow us to promptly eliminate the source of the problem. A one-time amortization deals with the reserve problem with a finality that is not available under remaining-life procedures, even though, as we Notice, the LECs rates may be higher in the short-run than they otherwise might be.[34]

18. Western Union asserts that there is no basis for our finding that present economic conditions warrant the proposed action, citing increases in the LECs special access rates that were scheduled to become effective on January 1, 1988. It states that a number of changes have led to this increase, and that adding additional depreciation costs will simply exacerbate the adverse impact of these rate increases on ratepayers. Western Union's objection misses the point of our tentative conclusion that this is a timely period for addressing the problem. The carriers have demonstrated that the savings from tax reform significantly exceed the increased costs resulting from a five-year amortization.[35] The Common Carrier Bureau has instituted an investigation of the LECs special access rates and has suspended the special access rate increases of many LECs.[36] Moreover, although the LECs proposed some increases in their special access rates, most ratepayers will, on average, pay lower switched and special access rates as a result of our actions on the LECs proposed 1988 access tariff revisions. The possibility that a particular tariff rate will be increased is not justification for us to ignore an industry-wide problem. We will not defer necessary action to eliminate the imbalances because that action may further increase particular rates which are increasing due to unrelated factors, such as cost allocation changes, especially when, as here, general current economic conditions that existed when we first considered measures to decrease the deficiency are no longer present. As we stated in *Property Depreciation*, " . . . we find it not unreasonable that present ratepayers incur some additional expense in order to preserve the integrity of the investment and to assure the continued and longer term satisfaction of the requirements of our congressional mandate."[37]

19. Only Western Union disputes our tentative conclusion that amortization is warranted now because, as long as there are substantial reserve imbalances that affect both expense and return components of the LECs' revenue requirements, rates will be in excess of costs. It states that the movement to cost-based rates is "simply too abstract an objective to provide any practical guidance" in this policy area.[38] It asserts that our depreciation policy must be evaluated not with respect to cost-based pricing, but rather as to its "practical effects." In its view, so long as our depreciation policy provides carriers with "adequate incentives to replace old assets with economically more efficient new ones,"[39] we should not change our policy. We disagree. The establishment of cost-based rates is an important objective of this Commission because it ensures more economically efficient delivery and consumption of telecommunications services. The industry is burdened because the amount of capital that has been recovered through the ratemaking process is too small a percentage of total capital. So long as this situation continues, customers have received service at rates which do not reflect their appropriate costs. This is not, as Western Union would have it, an irrelevant matter -- whether the market be competitive or monopoly. This Commission's depreciation program is designed to match the recovery of the cost of assets with the service lives of the assets themselves.[40] The consequence of allowing a mismatch to continue is that future customers will be required to pay costs which were properly related to the use of assets in prior periods. Fairness dictates that we minimize such situations by carefully monitoring the best indicator of the imbalance and taking all steps that will solve the problem without producing increases in rates that would impose an undue burden upon the general body of ratepayers.

C. *The Need to Take Action on a Nationwide Basis*

20. In the *Notice*, we proposed a uniform, one-time amortization for all LECs that have not been authorized to amortize, rather than a series of amortizations pursuant to our decision in the *1984 Depreciation Rates Order*, *supra*. Western Union and Ad Hoc assert that there is no need to proceed in this manner.[41] Western Union states that we should not base the proposed amortization on any generalized judgment about the future impact of competition throughout the country, because any carrier that believes that competition threatens its ability to recover depreciation expenses can seek special treatment.[42] In its view, competition is unlikely to prevent carriers generally from recovering their capital costs so long as remaining-life procedures are in place. It further asserts that none of the carriers seeking amortization authority in 1987 identified any specific service for which the rate would be effectively governed by competition rather than regulation.[43]

21. Our action herein is not based upon the competitive situation of each carrier. Rather, as we first stated in *Property Depreciation*, the general impact of new technology and competition in the industry led to service lives shorter than those upon which depreciation expenses were set. Thus, the problem of inappropriately high reserve deficiencies exists for the industry as a whole, although our efforts and those of certain states appear to have

reduced the extent of the problem for certain carriers. Nonetheless, we would be remiss in our obligation to insure an efficient nationwide telecommunications system if we failed to correct an industry-wide problem which developed over many years. We do not plan to depart from our regular depreciation program of setting rates for individual carriers on a jurisdiction by jurisdiction basis, after reviewing carriers individual reports and consulting with state regulatory agencies about conditions existing in their jurisdictions. Moreover, the particular amounts that individual carriers will amortize will vary according to each carrier's reserve deficiency. The problem of high reserve deficiencies is nevertheless an industry-wide problem.

22. The *Notice* also stated that a uniform amortization policy provides consistent treatment of all carriers, which is important in the administration of pooled interstate access charges. Only Western Union disagrees with this basis for uniformity. It states that the present difference in amortization has not, in and of itself, prejudiced any carrier's participation in the pool. It finds it "difficult to imagine" that use or non-use of amortization would have a very large effect on the allocation of revenues, and that any effects would become even eventually.[44]

23. We believe that consistency for pooling purposes is a valid concern, even if the effect on a particular carrier is not great. When a problem exists in the industry generally, fairness dictates that carriers be treated equally in their recovery of the costs unless a countervailing concern precludes equal treatment. We are not, as Western Union asserts, forcing " . . . unwanted and unjustified amortization expenses upon ratepayers in a particular jurisdiction solely in order to serve the administrative convenience of the participants in an interstate pool."[45] We first determined, for the reasons identified in the paragraphs above, that a more prompt recovery of these expenses through amortization *is* required. Only then do we consider whether pooling considerations should affect our recovery procedure.[46]

D. ***The Proposed Amortization Does Not Treat Ratepayers Unfairly***

24. Western Union asserts that the proposed amortization would be unfair and prejudicial to ratepayers who must pay the additional charges during the amortization period.[47] Its first basis for this position is the misplaced view that the proposal improperly matches costs with revenues. In fact, the amortization will better match depreciation costs with the time period in which the associated plant was used. As Ameritech notes, the fact that there is a deficiency means that recovery of costs has already been deferred once. Thus, amortization over a period less than remaining life places recovery closer to the time when the capital was actually consumed.[48]

25. Western Union is also incorrect in its position that amortization will require customers to "make contributions of capital to the carrier."[49] Its sole basis for this assumption is the fact that carriers in their amortization filings in 1987 stated that amortization would decrease their need for external funding. That consideration does not cause the carriers' recovery of depreciation expenses to differ in any way from traditional ratemaking practices. The issue here is simply the *timing* of recovery of costs associated with carriers use of capital to provide a communications service. Amortization may provide benefits to certain carriers with respect to outside financing plans. However, this is also true with respect to other non-cash expenses, such as accruals for an expense to be paid in the future. So long as proper ratemaking procedures are used to insure that the rate base and expenses reflect relevant costs, no customer has been required to make a capital contribution.

E. ***1984 and 1985 Amortizations***

26. The *Notice* did not propose to disturb amortizations authorized in 1984 and 1985.[50] Those amortization orders became final, and carriers have relied upon the authority granted therein in establishing their rates. Also, the financial data that reflect those amortizations have been published and relied upon by investors. No party suggested that we revoke or change the 1984 and 1985 amortizations in this proceeding. However, U S West states that LECs with existing amortizations from that period should be allowed further amortization in order to use the latest information available to "optimize their capital recovery."[51] We reject this position. As we stated in the *Notice*, our proposed amortization is only for those LECs which have not heretofore been granted such authority. The amortizations authorized in 1984 and 1985 were designed to cure the deficits of the affected carriers, and we will not revisit those amortizations now or during the five-year amortization period.[52] Minor reserve imbalances resulting from routine revisions in life and salvage factors and changes in retirement patterns are inevitable, and it is not necessary that a carrier so fine-tune its amortization in this regard.

F. ***Effective Date of Amortization Period***

27. The LECs generally support the option of allowing each one to choose a date between January 1, 1987 and January 1, 1988 as the amortization commencement date.[53] PacTel recommends January 1, 1987 as the effective date. We conclude that consistency in the application of this amortization warrants the use of a single starting date, unless the carrier can show some harm resulting therefrom. We will require the amortization period for each carrier to commence on January 1, 1987.[54] There are several reasons for this decision. First, in the *1986 Orders* we stated that we would not make policy changes therein, but rather do so later and allow any amortization to be applied as of that date.[55] Carriers and state commissions presumably relied on that fact in developing their depreciation actions during 1987. Second, we have concluded herein that non-uniform treatment of carriers in this area has not been in the public interest. The use of a uniform effective date, along with a uniform amortization period, will afford all concerned a degree of certainty that has not previously existed. Third, it is to the interest of ratepayers that the effective date be established at the beginning of 1987, as the carriers rate bases will be lower at the end of this year than they otherwise might be. However, it may be that a carrier would be disadvantaged by a January 1, 1987 effective date.[56] Such a carrier may file a petition for waiver of this requirement, demonstrating the manner in which it would be prejudiced by use of this date.[57]

G. ***Duration of Amortization***

28. We tentatively concluded that a five-year amortization period produces an appropriate balance between speed of recovery of the deficiency and impact on ratepayers. Most carriers support this proposal. U S West, however, suggests that we use a period of between three

and five years. We reject this proposal. U S West made no showing that the three-year period would take into account our expressed concern that the amortization have a minimal impact on rates. Moreover, we reject the position of some carriers that we allow them to file for shorter periods, depending on their particular circumstances.[58] The purpose of this proceeding is to address the need to remedy the current reserve deficiency problem on a one-time, uniform basis. Allowing each carrier to file for its desired amortization period would be inconsistent with this goal. Also, it is not realistic to believe that we could thoroughly review and act on all such special requests in time for the amortization to commence as of January 1, 1987. As noted above, we will continue to set service lives and parameters on a carrier-by-carrier basis during our triennial reviews. This individualized treatment will be sufficient to take into account special circumstances in different jurisdictions.

H. *Other Matters*

29. Michigan urges us to apply this policy to the interstate depreciation reserve deficiency only. *Louisiana PSC* has established the state commission's right to use different depreciation computations for purposes of intrastate ratemaking. To the extent that any state concludes that the depreciation charges resulting from our action will have an adverse impact on intrastate revenue requirements, the state commission can take whatever steps are available under state law to use a differing depreciation expense.

30. We also take this opportunity to clarify a point about which parties have differing views. Michigan supports the amortization only if it is a one-time authorization. Other parties appear to view our action as a decision to resolve reserve imbalances generally through the use of amortizations. Our decision herein is to allow one amortization of the current deficiency, to accelerate the recovery of that deficiency more quickly than strict use of remaining-life methods allows. This amortization is not a decision to abandon remaining-life procedures in general. Our policy is still that remaining-life methods will cure the industry's reserve fluctuations over the long term. Accordingly, we do not intend further amortizations of imbalances during the five-year period. Any carrier seeking a waiver of this procedure would have to make a strong threshold showing why the depreciation policy changes of this decade and continued use of remaining-life procedures are inadequate for it to recover its capital in a timely manner.

31. We stated in the *Notice* that any carrier opposed to amortization should file comments demonstrating why amortization would be contrary to our expressed concerns.[59] U S West states that amortization is not warranted for Pacific Northwest Bell's investment in Idaho, and New England Telephone states that it does not seek amortization in Rhode Island. Neither request requires special treatment. New England Telephone's situation appears to result from an agreement with the Rhode Island Commission. U S West plans to include all Idaho investment in a Mountain States 1988 represcription request "for reasons of efficiency."[60] These agreements and decisions alone are no longer a sufficient basis for exemption from this amortization action, especially in view of the decision herein that this is a one-time opportunity to amortize the deficiency. Accordingly, this amortization is applicable to all LECs that are subject to our depreciation prescriptions except LECs that are subject to previous amortization authorizations.

32. Ad Hoc's assertions that our action herein is inconsistent with Congressional policy are misplaced. First, we have not heretofore attempted to match depreciation policy and procedures with tax timing considerations. We have no reason to believe that Congress would choose the same time periods for two different purposes. Moreover, Congress has not directed this Commission to adopt any particular method or timetable for the elimination of the reserve deficiency. Ad Hoc's concern about perpetuating depreciation expenses if "price cap" procedures are adopted should be addresssed in that proceeding.[61]

V. CONCLUSION

33. For the reasons set forth herein, we conclude that it is in the public interest to take a one-time additional step to reduce the depreciation reserve deficiencies of most LECs that are subject to our prescribed depreciation rates. To assure uniformity in the application of this policy change, we establish a five-year period for the amortization of reserve deficiencies of LECs that have not previously been authorized to amortize, commencing January 1, 1987.[62]

34. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980[63] and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

VI. ORDERING CLAUSE

35. Accordingly, IT IS ORDERED, pursuant to Sections 4(i), 4(j), 220 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151(i) and (j), 220 and 403, that the policy changes set forth herein ARE ADOPTED, effective upon release of this *Report and Order*.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

APPENDIX A

Parties Filing Comments in CC Docket 87 - 447

Ameritech Operating Companies (Ameritech)
Bell Atlantic Telephone Companies (Bell Atlantic)
South Central Bell Telephone Co., Southern Bell Telephone and Telegraph Co. and BellSouth Corp. (BellSouth)
Cincinnati Bell Telephone Company (CBT)
Contel Corp. (Contel)
GTE Telephone Companies (GTE)
K. N. Holler (Holler)

Idaho Public Utilities Commission (Idaho)
State of Michigan and Michigan Public Service Commission (Michigan)
Mountain States Telephone and Telegraph Co., Northwestern Bell Telephone Co. and Pacific Northwest Bell Telephone Co. (US West)
National Association of Regulatory Utility Commissioners (NARUC)
NYNEX Telephone Companies (NYNEX)
Pacific Bell and Nevada Bell (PacTel)
Southern New England Telephone Co. (SNET)
Southwestern Bell Telephone Co. (S W Bell)
United States Telephone Association (USTA)
United Inter-Mountain Telephone Co. (United)
Virginia State Corporation Commission (Virginia)
The Western Union Telegraph Co. (Western Union)

Parties Filing Reply Comments

Ad Hoc Telecommunications Users Committee (Ad Hoc)
Ameritech
Bell Atlantic
BellSouth
GTE
NYNEX
PacTel
S W Bell
USTA
U S West
Western Union

APPENDIX B

Amortization of Reserve Imbalance

1. To compute a reserve imbalance for an account, a theoretical reserve percentage is required. This percentage (TR%) is calculated as follows:

$$TR\% = (100\%-FNS\%) - ((100\%-ANS\%) \times ARL/ASL)$$

where: FNS = future net salvage
ANS = average net salvage
ARL = average remaining life
ASL = average service life

2. The reserve imbalance (RI) is calculated as follows:

RI = (TR% x book investment balance) - (book depreciation reserve balance), both numbers rounded to the nearest thousand

3. The reserve imbalance amortization (RIA) is calculated as follows:

$$RIA = \frac{RI}{5}$$

Note: All factors and balances are to be determined as of January 1, 1987.

FOOTNOTES

[1] 2 FCC Rcd 6473 (1987).

[2] In the *Notice*, we stated that we would address in a separate proceeding amortizations granted in 1986. *Notice* at n. 1. In an *Order Inviting Comments*, 2 FCC Rcd 7172 (1987), we invited parties to comment on issues associated with two depreciation rate orders adopted in 1986: the *1986 Depreciation Rates Order*, 2 FCC Rcd 610 (1987) and the *1986 Annual Updates Order*, 2 FCC Rcd 842 (1987). We resolve the issues arising from those orders in a separate *Memorandum Opinion and Order*.

[3] 47 USC § 220(b).

[4] The nature of depreciation accounting, and the importance of the reserve for the LECs, are described more fully in paras. 2-5 of the *Notice*.

[5] *Notice*, 2 FCC Rcd at 6473.

[6] A reserve imbalance exists when the carrier's actual "book" depreciation reserve differs from its "theoretical" reserve, which is the reserve which would exist if service lives and salvage values had been accurately forecast in the past. *See generally Notice* at n. 5. When the theoretical reserve exceeds the book reserve, the imbalance is a reserve deficiency. For most LECs the reserve imbalance is an overall deficiency.

[7] Amendment of Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies), 83 FCC 2d 267 (1980) (*Property Depreciation*), *recon.* 87 FCC 2d 916 (1981), *Supplemental Opinion and Order*, 87 FCC 2d 1112 (1981).

[8] Remaining-life procedures allow the carrier to recover a reserve imbalance caused by changes in life or salvage values over the remaining life of the account, by factoring those imbalances in the rate determinations. The previous "whole-life" procedures did not automatically adjust the rates to include the reserve imbalance.

[9] *See generally Notice* at note 11.

[10] *See* The Prescription of Revised Percentages of Depreciation Pursuant to Section 220(b) of the Communications Act of 1934, as amended, for: American Telephone and Telegraph Co. -- Long Lines Department, *et al.*, 96 FCC 2d 257 (1983), *recon. denied*, FCC 84-505 (released October 31, 1984), *affd sub nom.* Southern Bell Telephone and Telegraph Co. v. FCC, 781 F. 2d 209 (D.C. Cir. 1986). Dying accounts are asset accounts in which little or no new investment is being made, and for which substantial retirements are impending. For these accounts, we have allowed carriers, upon specific request, to amortize the entire balance. Our amortization policy for such accounts is not at issue here.

[11] Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act of 1934, as Amended, for: The Chesapeake and Potomac Telephone Co. *et al.*, 99 FCC 2d 1094 (1984) (*1984 Depreciation Rates Order*).

[12] *Id.* at 1104.

[13] The 1986 amortizations that were authorized are not being considered in this proceeding. *See* note 2, *supra*.

[14] We have not, however, automatically concurred in a state's amortization recommendation. *See* Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act of 1934, as Amended, for: The Bell Telephone Co. of Pennsylvania *et al.*, 103 FCC 2d 185 (1985), *recon. denied*, FCC Rcd 842 (1987) (*1985 Depreciation Rates Order*).

[15] News Release, FCC Releases Report on Depreciation, Tax Reform, and Capital/Expense Changes, Mimeo. No. 2840, April 17, 1987 (*Report*).

[16] The factors which cause a decline in the rate of decrease of the deficiency are described in para. 15 of the *Notice*, and are not disputed by any party herein.

[17] 106 S. Ct. 1890 (1986).

[18] A list of commenters and the abbreviations used herein is attached as Appendix A.

[19] Ameritech, Bell Atlantic, Cincinnati Bell, Contel, GTE, NYNEX, PacTel, SNET, Southwestern Bell, U S West and United. U S West, however, urged a three to five year amortization period. Because these carriers generally supported our proposal for the reasons described in the *Notice*, we will not summarize their comments herein. Specific concerns are discussed in Section IV., *infra*.

[20] NARUC Comments at 4-5.

[21] Michigan Comments at 3.

[22] Virginia Comments at 2.

[23] Western Union Reply at 3.

[24] Western Union asserts that if we find that the customers who would pay higher rates during the amortization period are more likely to include those who benefited in the past from under-depreciation, we would be engaging in retroactive ratemaking. It states that this could be concluded only if all factors affecting the cost of service for that period were reviewed.

[25] Ad Hoc Reply at 6.

[26] *See* Policy and Rules Concerning Rates for Dominant Carriers, 2 FCC Rcd 5208 (1987).

[27] *Property Depreciation*, 83 FCC 2d at 290.

[28] *Id.* at 293, 290.

[29] Western Union states, for example, that remaining-life depreciation as a general rule is fair to all, and amortization should be available to any carrier showing a particular need for recovery over a shorter period. Western Union Comments at 5.

[30] Several carriers dispute the staff's calculations of the size of the reserve deficiency, asserting that the "actual" number is considerably higher. *See, e.g.*, NYNEX Comments at 8. We do not herein need to address whether our staff's estimate is unduly low. We did not invite comments on that matter and our findings herein do not rely on deficiency estimates of the magnitude cited in certain comments.

[31] Idaho states that we should not abandon our policy of allowing amortization only when the state regulatory commission concurs in that action. Idaho Comments at 2. As noted herein, we do not expect to be addressing amortization requests other than in the subject proceeding and in the reexamination of 1986 amortization authorizations, as remaining-life procedures should be sufficient to correct any reserve imbalances when the five-year amortization is concluded. We plan to continue our three-way meetings with the LECs and state regulatory agencies to discuss the need for revised depreciation rates due to changes in service lives, etc. However, although *Louisiana PSC* does not prohibit this Commission from "accommodating the philosophies of the state commissions" (Idaho Comments at 2), we will not withhold corrective action until a state agrees with both the nature and extent of the problem.

[32] *See Notice*, 2 FCC Rcd at 6475-6.

[33] About one-half of the industry reserve deficiency is associated with buildings and cable and wire facilities. These accounts have very long average remaining lives. For example, the data filed by the LECs for their 1987 triennial reviews showed approximate average remaining lives of 15 years for aerial cable, 19 years for underground cable, 15 years for buried cable, 46 years for conduit and 29 years for buildings.

[34] *Notice*, 2 FCC Rcd at 6475. Holler is concerned that our amortization will increase both interstate and intrastate revenue requiremnents. Holler Comments at 1. That is not necessarily the case. A state commission is free to use depreciation expenses for ratemaking purposes that do not reflect the five-year amortization. Thus, the amortization will not of necessity have an adverse impact on intrastate revenue requirements or rates. Holler is also concerned that a state commission's decision not to follow the five-year amortization may preclude a carrier from recovering its revenue requirements through rates. Holler Comments at 2. However, in view of *Louisiana PSC*, if a state commission does not agree with the five-year amortization, it has exclusive discretion to make other decisions concerning the ratemaking treatment of the intrastate depreciation reserve.

[35] *See, e.g.*, Ameritech Reply at 7. (decrease in federal tax expense is three times the increase in depreciation expense); CBT Comments at 3 (amortization increases revenue requirement by 0.6% compared with reduction of 4.0% resulting from tax reform).

[36] Annual 1988 Access Tariff Filings, DA 87-1876 (released December 24, 1987) at paras. 112-116.

[37] 83 FCC 2d at 293.

[38] Western Union Comments at 9.

[39] *Id.*

[40] 83 FCC 2d at 293.

[41] Although BellSouth asserts that this Commission should be flexible in its approach to amortization, it appears to agree that the problem must be addressed on a nationwide basis. *See* BellSouth Reply at 6-7.

[42] Western Union Comments at 12.

[43] *Id.* at 13.

[44] Western Union Comments at 15-16.

[45] *Id.* at 17.

[46] Western Union asserts that our proposal is inconsistent with this Commission's brief in *Southern Bell Telephone and Telegraph Co., supra* note 10. Western Union Comments at 16. We do not agree. That brief simply stated that the averaging process used in pooling does not discriminate against carriers. We have concluded here that the LECs as a group are burdened with a reserve deficiency problem. Greater uniformity of treatment will eliminate capital recovery timing differences, and no carrier will recover greater or less than its relevant costs.

[47] Western Union Comments at 17-22.

[48] Ameritech Comments at 8.

[49] Western Union Comments at 20-22.

[50] *Notice*, 2 FCC Rcd at 6476.

[51] U S West Comments at 10.

[52] As previously noted, we are reexamining 1986 authorizations in a separate order. There are also some special circumstances involving LECs whose pre-1986 amortizations were modified in the *1986 Orders*. These circumstances are described and resolved in the *Memorandum Opinion and Order* addressing 1986 amortizations.

[53] Section 43.43(e) of our rules allows carriers to make depreciation rate changes effective as of the start of the respective accounting period.

[54] We note that most of the LECs that filed depreciation rate change requests in 1987 requested a January 1, 1987 effective date.

[55] *See, e.g., 1986 Depreciation Rates Order* at 613.

[56] For example, the effect of tax reform and other factors on 1987 revenue requirements may be less than the annual effect of the five-year amortization.

[57] Because there will be little time between the release of this order and the date upon which carriers must close their books, we authorize the Common Carrier Bureau to act on such petitions without establishing a pleading cycle for public comment thereon.

[58] *See, e.g.,* Ameritech Comments at 12.

[59] Notice at note 32.

[60] U S West Comments at 12.

[61] *See* note 26, supra.

[62] The formula for calculation of the reserve imbalance to be amortized is described in Appendix B. The specific depreciation rates resulting from this action will be prescribed in separate orders.

[63] 44 U.S.C. §§ 3501-20.

DISSENTING STATEMENT OF COMMISSIONER PATRICIA DIAZ DENNIS

In Re: Amortization of Depreciation Reserve Deficiencies, CC Docket No. 87-447

I respectfully dissent from the majority's across-the-board five-year amortization of depreciation reserve deficiencies for the local exchange carriers. I find such a grant unsound.

For some years now, the Commission's policy has been that use of the remaining life depreciation method will eliminate depreciation reserve deficiencies "in all but the most extreme circumstances." *Depreciation Rates,* 96 FCC 2d 257, recon. 99 FCC 2d 117 (1984), aff'd sub nom. *Southern Bell v. FCC,* 781 F.2d 209 (D.C. Cir. 1986). In 1984, the Commission denied Southern Bell,s request to amortize its depreciation reserve deficiency, in part, because it might increase expenses to the point where uneconomic bypass in the short term would occur as a result of artificial upward pressure on rates. Remaining life, by contrast, would match depreciation expense more closely with consumption of capital assets, thereby avoiding appreciable overstatement of present or future costs and avoiding uneconomic bypass. 99 FCC 2d at 122. The court in *Southern Bell* affirmed this reasoning, 781 F.2d at 215.

The Commission also recognized that there might be instances where remaining life would not allow timely recovery of capital if competition to LEC services developed before the reserve deficiencies were eliminated. It concluded that amortizing such deficiencies would be appropriate, 96 FCC 2d at 273-274. Thus, for example, it allowed Illinois Bell to amortize certain reserve deficiencies over a five-year period; Illinois Bell claimed that many of its services, particularly those its larger customers utilized, would be in a competitive environment in the foreseeable future, driving prices to marginal costs and leaving no revenues to cover reserve deficit depreciation through the remaining life method.

In deciding that amortization was appropriate for Illinois Bell, this Commission relied heavily upon the representations of the Illinois Commerce Commission concerning the state of competition in Illinois and the potential burden of amortization on ratepayers. We said:

> "In recognition of the varying and competitive and regulatory situations in each state, we direct our staff to consider the possibility of the use of amortizations similar to that approved herein for Illinois Bell. Upon application by a company with the concurrence of its state commission we will entertain the amortization approach for the elimination of reserve deficits on a case by case basis. The opinion of the state regulatory commission will be a significant factor in any decision to allow the use of amortizations, as it has been in the case of *Illinois Bell."* 99 FCC 2d at 1103-1104.

The *Southern Bell* court restated the Commission's amortization policy as follows:

> [T]he specific decision about whether to allow accelerated amortization of reserve deficits for a given utility turns on an evaluation of whether bypass is more likely to occur in the near term or only in the future....This evaluation must consider the differing competitive and regulatory conditions in each state, factors which the FCC found state commissions qualified to evaluate....

781 F.2d at 217, n. 10. The court cautioned, however, that making state commission concurrence a sufficient condition for allowing amortization would raise serious concern that the FCC had "abdicated its ratemaking responsibility to the states." Id. at n. 9.

Subsequently, the United States Supreme Court in *Louisiana Public Service Commission v. FCC,* 106 S. Ct. 1890 (1986) reversed the Commission's decision to preempt the states' powers to set depreciation rates and policies. Although the Commission stated it would reconsider its amortization policies in light of *Louisiana,* it nonetheless refused to grant Pacific Bell's post- *Louisiana* request for amortization "because Pacific Bell has not provided us or the [California Public Utilities Commission] with sufficient information showing that the level of competition in California necessitates the use of amortization procedures, and that its use would not unduly burden its ratepayers." *AT&T Communications,* et al., 2 FCC Rcd 842, 844 (1987). By undertaking to evaluate the competitive and rate impacts of amortization in California, this Commission thus shouldered a responsibility that the states had borne before the *Louisiana* decision. By Notice of Proposed Rulemaking in CC Docket No. 87-447, the Commission proposed, in light of *Louisiana,* to address the question of amortization of the interstate portion of the carrier,s reserve deficiencies. *Amortization of Depreciation Reserve Imbalances,* 2 FCC Rcd 6473 (1987) ("NPRM"). By requiring all local exchange carriers (LECs) to amortize the interstate portion of their reserve deficiencies over a five-year period in the resulting Report and Order, the majority departs from previous Commission policy that amortizations are to be granted on a case-by-case basis as conditions warrant. The Commission is obligated to give a reasoned analysis explaining why prior policies are being "deliberately changed, not casually ignored". *Greater Boston Television Corp. v. FCC,* 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied* 403 U.S. 923 (1971). Such analysis is particularly appropriate given the Commission's past statements that remaining life would resolve the problem of the reserve deficiencies "in all but the most ex-

treme circumstances,"96 FCC 2d at 268, and by the majority's statement in the Report and Order that "[t]his amortization is not a decision to abandon remaining-life procedures in general," Report and Order at para. 30.

In deciding whether the increased expenses (and rates) resulting from amortization are reasonable, the Commission must balance the interests of the ratepayers and the carriers. *FPC v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). As a general rule, remaining life will eventually permit the carriers to recover their capital. However, as pointed out by the Common Carrier Bureau's April 17, 1987 "Report on Telephone Industry Depreciation, Tax and Capital/Expense Policy"referred to in the NPRM, 2 FCC Rcd at 6473, although the overall industry depreciation position has improved substantially in recent years, progress has been uneven. For this reason, the Bureau recommended that amortizations be considered for carriers whose reserve progress had been relatively slow. Report at p. 12.

That an across-the-board amortization is unnecessary for the industry as a whole is demonstrated in the letter from the Chief of the Common Carrier Bureau's Accounting and Audits Division, dated October 15, 1987 to a member of the Ohio Public Utilities Commission. The Chief stated that the Commission's staff "has seen no objective evidence that would support the argument that current depreciation policies have kept the telephone industry from modernizing as quickly as they believe to be prudent". More importantly, attachments to the letter (containing figures derived from FCC Common Carrier Statistics) show that, since 1981, the telephone industry as a whole has internally generated more than sufficient capital to fund all construction. These facts raise doubts whether all carriers require the increased cash flow that will result from five-year amortization. Indeed, the Commission in the past refuted AT&T's claim that massive reserve deficits threatened that carrier's ability to modernize and compete, observing that in 1982 AT&T "was able to finance virtually its entire capital construction program through internally generated funds." 96 FCC 2d at 265.

The interests of ratepayers, on the other hand, are served by rates that are not excessive. Across-the-board amortization will increase the revenue requirements over the next five years of all LECs subject to Commission depreciation prescriptions. It will result in rates that are higher than would be the case absent such amortization. The fact that several LECs *(e.g.* BellSouth, Mountain Bell, New England Telephone) opposed an across-the-board five-year amortization, either in whole or in part, raises further questions whether it is necessary and/or in the public interest.

The majority offers several reasons why amortization, which was previously the exception, should now become the across-the-board rule. The first is that carriers' rates will become cost based more quickly than if remaining life were permitted to cure the reserve deficiencies.

Cost-based rates, while desirable in principle, must be balanced against other important considerations such as ratepayer impact and the likelihood of uneconomic bypass of the LECs' networks. *See, e.g., Rural Telephone Coalition v. FCC*, No. 84-1110, D. C. Circuit, February 5, 1988 (interim cost allocation found reasonable notwithstanding shortcomings; it was not unreasonable for Commission to consider past expectations of parties and unfairness of rapidly shifting policies).

Subsequent to the *Louisiana* decision, the Commission held that, because competition was not imminent in Pacific Bell's area, a grant of amortization and the effect of that amortization on ratepayers was not justified. AT&T *Communications, supra.* Yet in the instant Report and Order, the majority speculates: "Because the LECs operate in a rapidly changing technological environment, we cannot be certain that the marketplace forces which the LECs may face in the future would permit recovery of their reserve deficiency at that time." Report and Order at para. 17. See also Report and Order at para. 21, where the majority states that "Our action is not based upon the competitive situation of each carrier.,

How have the technological or competitive environments changed so drastically between January 29, 1987, (the date of the *AT&T Communications* decision), and January 21, 1988, (the date of the Report and Order), to necessitate a blanket amortization by all LECs over five years? Nothing in the record justifies such a change in policy. The majority fails to explain why the imminence of competition should not continue to be an important factor in deciding whether amortization is warranted.

That the existence or lack of competition must still play an important role in determining whether to amortize is demonstrated by the Commission's contemporaneous decision to grant amortization in *Alascom, Inc.*, FCC 88-13. There, the Commission permitted Alascom to amortize its depreciation reserve deficiency over a five-year period. The Commission stated that amortization was appropriate for "essentially the same reasons as stated in our 1985 Depreciation Rates Order [101 FCC 2d 137 (1985)]". In that order, AT&T was permitted to amortize because of a Commission finding that AT&T faced substantial competition and that existing depreciation methods might not permit full capital recovery. The majority does not explain why in two contemporaneous orders *(Alascom* and the Report and Order) competition is a factor in deciding one case but not the other.

The majority also fails to explain why the Commission's earlier concerns over potential uneconomic bypass resulting from amortization were misplaced. The majority acknowledges that, as a result of across-the-board amortization, "the LECs' rates may be higher in the short run than they otherwise might be". Report and Order at para. 17. Such above-cost rates will presumably encourage uneconomic bypass. *Southern Bell, supra* at 215-216. If uneconomic bypass were the reason the Commission denied one carrier (Southern Bell) permission to amortize, surely an across-the-board amortization for all LECs should raise commensurately greater concerns over uneconomic bypass. Yet those concerns are noticeably absent from the Report and Order.

The majority argues that the impact of amortization on ratepayers will be ameliorated by present economic conditions such as low inflation and decreases in revenue requirements resulting from changes in the tax laws, Report and Order at para. 17, and states that rates generally are declining. Indeed, in the NPRM, the Commission stated that passage of the Tax Reform Act of 1986 was a "major reason why any increase in revenue requirements resulting from our proposed amortization policy may be implemented with little or no apparent impact on ratepayers."NPRM at n. 30. Yet, while the majority says that the carriers "have demonstrated that the savings from tax reform significantly exceed the increased costs resulting from a five-year amortization", Report and Order at

para. 18, it elsewhere opines that "the effect of tax reform and other factors on 1987 revenue requirements may be less than the annual effect of the five year amortization. "Report and Order at n. 56.

Moreover, the Common Carrier Bureau's December 24, 1987 decision to investigate the LECs' 1988 annual access tariffs points out that several LECs showed dramatic and unexplained increases in federal income tax expense ranging up to 100 percent (BellSouth in Kentucky, 1988 Access Order, FCC DA 87-1876 at n. 32). The Bureau has decided to investigate these "excessive tax increases", id. at para 39. Given these circumstances, how can the majority conclude that that declining federal tax expenses would more than offset the costs of amortization?

None can doubt the importance of sound capital recovery policies in the telecommunications industry. Amortization of reserve deficits on a case-by-case basis has permitted us to address the needs of individual carriers. In some cases, amortization may not be warranted. In others, an amortization period shorter than five years may be appropriate. Unfortunately, the instant decision retreats from this enlightened approach and applies a broad-based solution to a problem which calls for focus on the circumstances of particular companies.

For the above reasons, I respectfully dissent.

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 87-568

In the Matter of

AT&T Communications
Tariff F.C.C.
Transmittal Nos. 1018 and 1102
No. 12

Rates and Regulations for Virtual
Telecommunications Network Service

MEMORANDUM OPINION AND ORDER

Adopted: February 8, 1988; Released: February 9, 1988

By the Chief, Common Carrier Bureau:

I. INTRODUCTION AND BACKGROUND

1. In Transmittal No. 1018, American Telephone and Telegraph Company (AT&T) proposed a new service entitled Virtual Telecommunications Network Service (VTNS). Unlike existing services that provide discrete types of voice or data communications capabilities, VTNS combines voice and data transmission capabilities into a single network service managed by AT&T.[1] AT&T states that VTNS would be designed by AT&T based on customers' forecasts of their service requirements, including call distribution patterns, call volumes, data transmission requirements, and any other service objectives which the customer specifies. *See* D&J at 4. This transmittal set forth rates for the initial VTNS configuration, identified in the tariff as "Option 1."

2. On October 7, 1987, MCI Telecommunications Corporation (MCI), and US Sprint Communications Company (US Sprint) filed petitions for rejection or suspension and investigation of Transmittal 1018, and the Independent Data Communications Manufacturers Association, Inc. (IDCMA) filed comments recommending consideration of the tariff in the context of other proceedings. AT&T filed a reply.[2] On January 11, 1988, AT&T filed Transmittal No. 1102, modifying Transmittal No. 1018, and furnishing additional cost support. Timeplex, Inc. filed comments on January 19; on January 26, MCI, US Sprint, and IDCMA filed petitions to reject or suspend Transmittal 1102; AT&T filed a reply on February 2.

3. Although Transmittal 1018 describes VTNS as a general offering, Option 1 was developed by AT&T as a result of negotiations with the Dupont Company. The VTNS tariff, however, provides provides for future negotiated agreements between AT&T and other customers: "The rates for VTNS are stabilized for three to five years and can be distance sensitive or postalized, sensitive to time-of-day, or otherwise developed to suit the customer's needs as specified in each Option covering various custom designs." AT&T Tariff F.C.C. No. 12, Proposed Section 7.1. The VTNS network defined under Option 1 consists of 2070 ports divided among four specific Local Access and Transport Areas (LATAs) termed "Hubs."[3] The rates for the service are stabilized for five years. During that five-year period AT&T will have "the responsibility and flexibility to choose the facilities -- *e. g.*, shared or dedicated -- that will be used to provide the service." *Id.*

4. Option 1 was originally designed to incorporate a multiplexer manufactured by Network Equipment Technologies (NET) that is compatible with customer premises equipment (CPE) that Dupont already owns. *See* D&J at 8 n.***. AT&T also requested waiver of the Commission's network disclosure requirements to permit AT&T to use the NET multiplexer as network equipment without disclosing the interface specifications.[4] AT&T subsequently withdrew the waiver request[5] and revised the proposed tariff to exclude the multiplexer from the tariff offering.[6]

II. POSITIONS OF THE PARTIES

A. *IDCMA*

5. The IDCMA comments on the initial transmittal related primarily to the use of the NET multiplexer. IDCMA also questioned whether the structure which AT&T was developing to respond to customers' individualized needs was consistent with the Communications Act and the Commission's Rules. IDCMA October Comments at 4-5. It recommended that the Commission include the issues raised by the VTNS tariff revisions in the investigation of AT&T Transmittal Nos. 895 and 961.[7]

6. IDCMA suggested that the Communications Act and the Commission's Rules may not permit the approach taken by AT&T in Transmittals 895 and 961, or in its current transmittal . *Id.* at 5. It speculated that Tariff 12 would become the "repository of scores or even hundreds of special arrangements with individual customers." Such a development, it argued, would not comply with the statutory requirements that AT&T's transmission services be offered under tariff, under conditions that do not unreasonably discriminate among customers. *Id.* at 5-6. Further, according to IDCMA, AT&T's approach was inconsistent with the private line rate structure guidelines, with established tariff precepts, and with public policy dictates. *Id.* at 6. It contended that, rather than integrating its rate structures, AT&T was creating new tariffs under which selected customers procure complex combinations of services and facilities, sometimes available to other customers at different prices and sometimes not available at all. *Id.*

7. IDCMA argued that a prospective AT&T customer could not examine the VTNS Option 1 provisions and know the price that AT&T would charge for the mix of services which would meet that customer's requirements. *Id.* at 6-7. There was no way, according to IDCMA, to determine the extent to which the capabilities offered are new versus the extent to which standard elements of other tariffs have been renamed, repriced, and bundled. *Id.* at 7. IDCMA further maintained that the Commission could not meaningfully evaluate AT&T's cost support, nor could a company wishing to provide integrated systems compete with AT&T on an even footing. *Id.* IDCMA recommended that, inasmuch as the same issues are raised by AT&T's Transmittals 895 and 961, the Commission should fold Transmittal 1018 into its investigation of those transmittals.[8]

8. On January 26, 1988, IDCMA filed a petition to suspend and investigate Transmittal 1102. IDCMA continues to predict serious consequences for competition in the design and procurement of integrated private networks if VTNS becomes effective without a complete investigation. IDCMA January Petition at 2. It contends that if VTNS and other Tariff No. 12 offerings become widespread, there is substantial danger that competition will be foreclosed in a significant market area. *Id.*

9. According to IDCMA, large business customers, who are potential customers for Tariff No. 12 services, will use a substantial quantity and variety of CPE to interconnect and interoperate with carriers' regulated transmission services. *Id.* at 3. Certain functions, it explains, can be provided by CPE located at the customer's premises, by equipment located in the carrier's office, or by customer-owned equipment located in the carrier's office. AT&T has a unique ability to influence the nature and location of equipment used to provide and interoperate with transmission service, IDCMA avers, noting also that AT&T manufactures a large variety of such equipment. *Id.* at 3-5. IDCMA asserts that, using Tariff No. 12, AT&T can disadvantage other systems integrators by designing a customer network based on (1) CPE colocated in an AT&T point of presence (POP), and (2) newly-designed regulated transmission services containing capabilities not previously available under AT&T's standard tariffs, or which contain other terms and conditions that are not otherwise available. *Id.* at 5-6. Because AT&T Tariff No. 12 revisions do not provide a description of the equipment involved, IDCMA asserts that neither it nor any party other than AT&T knows for sure what is really involved. *Id.* at 6. It characterizes as "consistent with AT&T's announced corporate strategy that AT&T would seek to market CPE at the same time as it markets its customized package of network services." *Id.*

10. IDCMA fears that AT&T's packaged offerings will foreclose intermodal competition, because AT&T may not only tie CPE to its network services deal, but could grant special terms for the components of its regulated services that are common to AT&T's offering and an independent vendor's equipment. *Id.* at 7. Further, it argues, if AT&T can manipulate colocation of a customer's equipment, it can confer savings in regulated services while permitting colocation, if at all, only when customer enters into a specific bundled transaction. *Id.* at 8. Finally, IDCMA contends, AT&T may offer special performance guarantees for its regulated transmission services only if the customer purchases CPE from AT&T. It notes that the flexibility in provisioning which is central to VTNS[9] allows AT&T to use virtually its entire network as a standby system to ensure VTNS network efficiency. Such flexibility, IDCMA argues, places AT&T in the position to make extraordinary performance guarantees for its CPE, or for end-to-end service including CPE. *Id.* at n.9.

11. IDCMA requests that the Commission institute an investigation of VTNS to determine whether the service is an element of a pattern of anticompetitive conduct. *Id.* at 9. It maintains that several aspects of VTNS demonstrate a significant potential for discriminatory conduct. IDCMA suggests the following areas for Commission investigation: (1) Whether VTNS provides superior performance guarantees or lower charges for regulated services linked to concomitant agreement to purchase AT&T's unregulated products or services. *Id.* at 10. (2) Whether volume discounts involved in the provision of VTNS represent unjustified preferential pricing and therefore constitute unreasonable discrimination in violation of Section 202(a) of the Act. *Id.* at 11-12. (3) Whether price stability plans for private line services offered to VTNS customers and withheld from other similarly situated private line customers are unlawfully discriminatory. *Id.* at 12. (4) Whether use of shared facilities in the provision of VTNS, if not made available to other customers, results in any unjustified price differential which would constitute discrimination under Section 202(a) of the Act. *Id.* at 13. (5) Whether the colocation of customer equipment under VTNS, not generally available to others in the configuration of private networks, is unlawfully discriminatory.[10] IDCMA also suggests that the Commission examine the contract between AT&T and Dupont underlying provision of Option 1, and afford interested parties opportunities for reasonable discovery. *Id.* at 16.

12. IDCMA further contends that the Commission must resolve the inherent questions of lawfulness raised by the VTNS tariff. *Id.* It asserts that questions remain concerning the terms and conditions of AT&T's contractual arrangement with Dupont. It questions whether VTNS can be considered a tariffed service within the purview of Section 203(a) of the Act, when many of the key classifications, practices, and regulations affecting it are undisclosed and describe service elements that are available only as part of a bundle of services. *Id.* at 17-18. IDCMA argues that VTNS is the functional equivalent of networks configured by other systems integrators. It asserts that these AT&T services, because they are perceived to be functionally the same, fall within the category of like services for purposes of determining whether VTNS is unlawfully discriminatory. *Id.* at 18-19.

13. In addition, IDCMA maintains that analysis of VTNS as a matter of competitive necessity should be focussed on VTNS's constituent regulated transmission services, rather than on customized networks in general. *Id.* at 19. Even if the discounts are justified, it adds, there is no basis for failing to make the discounted components available to others. It argues that AT&T must compete fairly in the separate markets and should not be permitted to use its dominance in regulated transmission services to provide network solutions that unfairly undercut competition in the CPE market and other nonregulated areas.

14. IDCMA claims that the highly customized VTNS service for Dupont may not constitute a common carrier offering. *Id.* at 20. It suggests that a generalized offering should include the availability of a varying number of hubs, ports, and data transmission capabilities presented on a separated basis, rather than highly individualized bundled offerings which appear to be at the core of AT&T's Tariff No. 12. *See id.* at 20-21 n.32. Finally, IDCMA argues that even if VTNS did not violate basic common carrier principles, it fails to meet each of the Commission's private line guidelines.[11]

B. *MCI*

15. The initial MCI petition argued that VTNS evidenced a total disregard on AT&T's part for the pricing and cost principles that apply to a dominant carrier. MCI October Petition at 1. It stated that the tariff resulted from a negotiated agreement between AT&T and Dupont, and presaged many more such negotiated agreements between AT&T and major corporate users. *Id.* at 2. MCI alleged that the tariff disclosed AT&T's regulatory and marketplace strategy, which, if permitted, would allow AT&T to

commit to any prices and service terms it believed necessary in order to "close" large user transactions. MCI maintained that AT&T was seeking to force deregulation to a level impermissible under Commission policy and rules. *Id.* MCI asserted that the VTNS tariff "is substantially more objectionable" than the DTSN tariff.[12]

16. MCI expressed concern that the competitive marketplace might be irreparably injured before the Commission determined that one-on-one transactions are unlawful. *Id.* It suggested that the Commission institute a general investigation into AT&T's strategy of negotiating one-on-one service agreements with major users. *Id.* at 5. MCI also recommended that the Commission investigate the extent to which AT&T is exploiting, to the detriment of competition in the common carrier and equipment markets, its advantage of being a "one-stop shopping" provider. *Id.* at 6.

17. According to MCI, Transmittal 1018 demonstrated that AT&T is attempting to achieve virtual total deregulation of its service offerings. *Id.* at 8. First, MCI noted, AT&T plans to colocate Dupont's equipment on AT&T premises without divulging the interface specifications concerning such equipment. MCI contended that such a colocation offering must be tariffed when the colocation is made for the purpose of providing direct interconnection with AT&T's tariffed services. *Id.* at 8-9. Failing to tariff the colocation, it argued, allows AT&T to permit or deny colocation in an unlawfully discriminatory manner. *Id.* at 9. MCI, finding numerous deficiencies in AT&T's cost support material, also asserted that AT&T had failed to show that it would recover its relevant costs in furnishing the proposed service to Dupont. *Id.* at 9-16.

18. MCI states that AT&T's removal of its waiver request regarding the NET multiplexer raises an additional issue, namely, AT&T's policy regarding colocation of customer provided equipment on AT&T premises. MCI Supplement at 3. AT&T's claim that its additional cost support material demonstrates that the Dupont offering is reasonably priced relative to alternative services available from AT&T or its competitors is irrelevant, MCI argues, to ascertaining the reasonableness of the proposed offering. It charges that AT&T has failed to unbundle its rates and to identify the specific costs that will be incurred in providing the Dupont service over a five-year period. *Id.* at 4. According to MCI, while Dupont service rates arguably may be comparable to alternative AT&T or competitor service rates, that fact alone does not justify the particular charges Dupont will pay. That is especially so, it adds, since the proposed offering is described by AT&T as a unique service. *Id.*

C. *US Sprint*

19. US Sprint argued in its October petition that AT&T's offering was patently unlawful insofar as it has been structured to "render meaningless the Commission's market rules." US Sprint October Petition at 3-4. It asserted that these rules and, in particular, the Commission's requirement that resale be unimpeded, had been the only effective deterrents to anticompetitive behavior and cross-subsidization by AT&T. *Id.* at 4.

20. US Sprint charged that AT&T has unnecessarily bundled various service components under one rate element in violation of the Commission's private line guidelines. *See id.* For example, it noted, AT&T plans to provide four types of ports -- basic, basic remote, measured and measured remote -- which are distinguished on the bases of their location and the rate applied to calls originating from them. *Id.* at 2. US Sprint observed that the rates for the four types of ports and for the data transmission capabilities are not set forth in the tariff. Rather, the rates for those components for the most part are subsumed under a single basic monthly charge. This lack of visibility, it argued, precludes meaningful Commission review and makes it impossible for customers to compare rate elements and make intelligent choices. *Id.* at 4. US Sprint also charged that AT&T failed to specify whether it would charge a separate rate for managing Dupont's network. *Id.* at 4 n.3.

21. Moreover, US Sprint asserted, the offering is designed in such a way as to preclude resale, inasmuch as it is unlikely that any customer would require the same number of ports in the four LATAs to which service is restricted in the tariff. *Id.* at 5. Contrary to AT&T's claim that VTNS would be generally available, US Sprint continued, the offering is restricted to the use of a single customer in violation of "well-established legal principles." *Id.*

22. AT&T's Transmittal 1102, US Sprint argues, does not remedy any of the defects in the proposed VTNS service. US Sprint January Petition at 2. The service components continue to be unnecessarily bundled and the modified version of the service is designed for a single customer and therefore continues to preclude resale. *Id.* at 2-3. US Sprint observes that it is extremely unlikely that a customer would require exactly the same configuration of ports in exactly the same LATAs as specified by Dupont. *Id.* at 4.

D. *AT & T*

23. AT&T, while asserting that VTNS is a general offering available to all customers, maintains that even if the service were limited to one customer, nothing in the Communications Act precludes a carrier from providing a specialized service for a customer simply because no other customer has a need for such service.[13] AT&T noted in its initial reply that MCI's Tariff No. 1 offers customized services, with rates developed on a case-by-case basis. October Reply at 7. AT&T also observed that Section 201(a) of the Act requires a common carrier to furnish communications service "upon reasonable request therefor." *Id.* at 8. It therefore would be contrary to a carrier's obligation to provide service, AT&T concluded, if the unique requirements of customers could not be satisfied by carriers who file tariffs with the Commission. *Id.* at 8-9.

24. In its October reply, AT&T denied that VTNS would harm competition, or that competitors were disadvantaged because only AT&T can provide "one-stop shopping." October Reply at 10-11. It noted that MCI, in combination with IBM and Rolm, could itself provide customers with integrated service offerings. *Id.* at 11. AT&T asserts in it February Reply that the Commission envisioned that AT&T would compete vigorously for the sale of both network services and customer equipment, particularly in the development of system solutions for large customers. February Reply at 11. It alleges that one of the Commission's principal purposes for lifting the structural separation requirements was to allow customers to realize the efficiencies that could be achieved through joint marketing. *Id.* AT&T states that IDCMA has made no claim that AT&T has violated the nonstructural safeguards imposed by the Commission in the Third Computer Inquiry to protect competition.

25. In both its replies, AT&T has challenged assertions that VTNS violates the private line rate structure guidelines.[14] In October, it asserted that the terms and conditions in the VTNS tariff were consistent with those in existing AT&T tariffs "whenever possible."[15] It contended that terms for usage-sensitive charges, termination liability, and rate changes for services with stabilized rates were "in line" with those which apply to other AT&T services. *Id.* at 13-14. In any event, it added, the private line guidelines do not require that the rate structure of VTNS be identical to that of other AT&T services. AT&T stressed that VTNS is a new service, not comparable to any other service it currently offers. It also claimed that because VTNS is not the same or comparable to other services, it need not be integrated totally into the rate structure of other services. *Id.* at 14; *see also* February Reply at 15.

26. In its October reply, AT&T contested petitioners' claims that VTNS rate elements were unnecessarily bundled, in violation of the third private line guideline. October Reply at 15. It argued that the Commission has recognized that not all services must include separate rate elements for every component of service, "particularly if customers request a packaged rate." *Id.* (*citing* 97 FCC 2d at 934). In any case, AT&T argued, the private line guidelines are not mandatory and failure to adhere to them is not grounds for rejection or suspension. Adherence to those guidelines simply allows a carrier to reduce its burden of cost justification. *Id.* AT&T asserts that it has not sought a reduced burden of cost justification, and that the economic and financial support information it filed complies with Section 61.38 of the Commission's Rules. *Id.* at 17-18.

27. Both AT&T replies disputed MCI's allegations that VTNS will not recover its costs. According to AT&T, the minimum monthly usage charge is sufficient to recover all relevant costs even if the customer's usage is such that only the minimum charge applies for the entire service period. October Reply at 19. It asserted that, even under this "unlikely scenario," AT&T's total earnings would still increase by $2 million in 1989. *Id.* at 20. MCI's charge that stabilized rates will become non-compensatory if costs rise more rapidly than AT&T has anticipated is incorrect, AT&T claimed, because customer demand for VTNS was more certain than demand for traditional services. AT&T stated it was possible to forecast costs more reliably for VTNS than other services. *Id.* It added that it had taken into account changes in access expenses and depreciation and had secured from local exchange carriers at specific locations[16] beneficial long-term rates for high capacity access. *Id.* Finally, AT&T denied that the Commission's Rules require it to demonstrate that each rate element is cost-based. *Id.* at 21. AT&T's later reply notes that its net revenue analysis showed that VTNS will be profitable for each year of service. February Reply at ii, 12. In addition, AT&T argues, it has provided comparisons of the average price per minute for VTNS voice usage and similar rates for alternative services. It observes that MCI concedes that VTNS arguably may be comparable to alternative AT&T or competitor service rates. *Id.* at 13.

III. DISCUSSION

28. The Common Carrier Bureau has reviewed Transmittal 1018 and 1102 and the pleadings filed by petitioners and by AT&T. In Transmittal 1102, AT&T has provided additional cost support information which tends to show that the service will, in fact, make a positive contribution to AT&T net revenues. AT&T has also demonstrated that there is no gross disparity between VTNS per minute charges and per minute charges for existing AT&T services. We conclude that Transmittal 1018, as modified by Transmittal 1102, is not patently unlawful.

29. We do conclude, however, that certain issues warrant further investigation. While AT&T describes VTNS as a general offering, its tariff appears to involve a combination of services designed to meet a single customer's needs. As we stated in the *DTSN Designation Order* :

> [A]ny service that is offered exclusively to a particular customer would appear to violate Section 202(a), which prohibits unreasonable discrimination in the provision of like services.
>
> Although AT&T presumably could design an offering to satisfy the known requirements of a particular customer or a limited number of customers without violating any statutory standard, AT&T may be obligated to make reasonable efforts to create an offering that is as general as possible.

DTSN Designation Order at para. 15.

30. AT&T apparently does not claim that it made an effort to make Option 1 as general as possible. AT&T claims that it has a right to develop customized services to meet the needs or desires of a particular customer. Inasmuch as we have already initiated an investigation to examine that question, these transmittals must also be investigated.

31. We further conclude that, as US Sprint suggests, this investigation should be included in the ongoing investigation of AT&T's Transmittals 895 and 961. We have also concluded that the VTNS offerings should be subject to accounting safeguards to prevent subsidization of VTNS with revenues from other services. This approach balances the interests of prospective VTNS customers, competing vendors, AT&T, and AT&T's ratepayers. We adopted a similar mechanism in our *DTSN Order*, and found that such action provided a reliable safeguard against cross-subsidization.

32. We have decided that the investigation should not be expanded to examine questions relating to colocation, CPE marketing or other matters that are not reflected in the tariff transmittals. A Section 204 tariff investigation is not an appropriate proceeding to determine the legality of real or imagined untariffed practices. Section 204 proceedings are designed to determine the legality of new charges or practices that are described in the tariff. We are designating these transmittals for investigation in order to determine whether the offering that is described therein is consistent with the requirements of Section 202(a) of the Communications Act, 47 U.S.C. § 202(a).

IV. DESIGNATION OF ISSUES TO BE INVESTIGATED

33. AT&T shall, in accordance with the requirements of this Order, submit a direct case responding to the questions in this section.

(1) AT&T should demonstrate that services provided under VTNS, Option 1, do not unjustly and unreasonably advantage the targeted user to the detriment of other AT&T customers for the same or similar AT&T services. Such demonstration should include, *e. g.*, a comparison of the effective VTNS rates with rates for other, generally available voice and data services, discussions of quality of service provided by VTNS, Option 1, as compared to quality of service associated with other similar AT&T offerings, and the scope and purpose of network management services furnished under Option 1.

(2) AT&T should describe any accounting and administrative mechanisms which will insure that VTNS, Option 1, does not result in cross-subsidies, such that other AT&T customers for the same or similar services subsidize users who receive the individually negotiated services under VTNS, Option 1.

(3) AT&T should provide additional information and justification in support of its view that VTNS, Option 1, is in compliance with the Commission's Private Line Guidelines. Such demonstration should include explanation and justification for (a) any terms and conditions in the VTNS tariff which are inconsistent with existing AT&T tariffs, (b) bundling of VTNS rate elements, (c) selection of rate elements to reflect market demand, and (d) the absence of a separate rate element for network management.

(4) AT&T should respond to the following questions relating to resale of VTNS: (a) Does the absence of general rate schedules setting forth per unit of service charges make it infeasible to arbitrage between rate schedules for substitutable services? (b) Do conditions imposed on the individually negotiated services, such as customer location specifics, traffic volume requirements, or length of commitment periods, effectively foreclose the services from those who would elect to engage in resale undertakings? (c) Does the possibly discretionary nature of the packaged offering make it difficult for resellers to obtain service should they so desire?

(5) Provide further justification for restricting VTNS service to the four LATAs and to the number of ports set forth in Transmittal 1102.

V. PROCEDURAL REQUIREMENTS

34. This investigation will be conducted as a notice and comment proceeding to which the procedures set forth in this Order shall apply. Accordingly, we require AT&T no later than March 28, 1988, to file a direct case addressing the issues outlined above. In its direct case, AT&T must answer each specific question listed above. Moreover, the direct case must supply all information upon which the carrier relies to support its position. Pleadings opposing the direct case may be filed by interested parties no later than **April 18, 1988,** and must be captioned "Opposition to Direct Case" or "Comments on Direct Case." AT&T may file a "Rebuttal" to oppositions and comments no later than **May 9, 1988.** All oppositions, comments, and AT&T's rebuttal must also be organized to reflect the issues designated in this Order.

35. An original and seven copies of all pleadings shall be filed with the Secretary of the Commission. In addition, one copy shall be delivered to the Commission's commercial firm for copying, International Transcription Service, Inc. (ITS), Room 246, 1919 M Street, N.W., Washington, D.C. 20554. Members of the general public who wish to express their views in an informal manner regarding Transmittals 1018 and 1102 may do so by submitting one copy of their comments to the Acting Secretary, Federal Communications Commission, Washington, D.C. 20554.

36. *Ex parte* contacts (*i. e.*, written or oral communications which address either the procedural or substantive merits of the proceeding which are directed to any member, officer, or employee of the Commission who may reasonably be expected to be involved in the decisional process in this proceeding) are permitted in this proceeding until a public notice of scheduled Commission consideration of a final Order is released and after the final Order itself is issued. Written *ex parte* contacts must be filed, on the same day submitted, with the Acting Secretary for inclusion in the public file. A written summary of oral *ex parte* presentations must be served, on the same day presented, on the Acting Secretary and Commission employees receiving each presentation. For other requirements, *see generally* Section 1.1200 *et seq.* of the Commission's Rules, 47 C.F.R. § 1.1200 *et seq.*

VI. ORDERING CLAUSES

37. Accordingly, we direct AT&T Communications to offer the Virtual Telecommunications Network Service on a separate accounting basis, *i. e.*, revenue, cost, and investment amounts relating to the Virtual Telecommunications Network Service will be excluded from the Interim Cost Allocation Manual private line category for purposes of applying the equalization requirement[17] and measuring compliance with applicable provisions of Part 65 of the Commission's Rules. This will ensure that rates for other AT&T Communications private line services are not increased to compensate for any earnings shortfall that may be produced by Virtual Telecommunications Network Service. We waive the Interim Cost Allocation Manual and Part 65 requirements through December 31, 1988, to the extent necessary to exclude the Virtual Telecommunications Network Service.

38. IT IS FURTHER ORDERED pursuant to Sections 218 and 220(a) of the Communications Act, 47 U.S.C. §§ 218 and 220(a), and the authority delegated under Sections 0.91(g) and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, that AT&T Communications shall separately account for revenues, costs, investment, and net earnings associated with Virtual Telecommunications Network Service in accordance with para. 37, *supra*, until further notice.

39. IT IS FURTHER ORDERED that Part 65 of the Commission's Rules, 47 C.F.R. Part 65, IS WAIVED to the extent indicated in para. 37, *supra*.

40. IT IS FURTHER ORDERED, pursuant to Sections 4(i), 4(j), 201(b), 204(a), and 205 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 204(a) and 205, that an INVESTIGATION IS INSTITUTED into the lawfulness of the above-captioned tariff revisions.

41. IT IS FURTHER ORDERED that American Telephone and Telegraph Company shall be a party to this proceeding.

42. IT IS FURTHER ORDERED That the comments filed by the Ad Hoc Telecommunications Users Committee, described in note 2, *supra*, ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

FOOTNOTES

[1] *See* AT&T Transmittal No. 1018, Description and Justification (D&J) at 1.

[2] On October 19, 1987, the Ad Hoc Telecommunications Users Committee (Ad Hoc) also filed comments in response to the MCI, US Sprint, and IDCMA pleadings. Ad Hoc comments are limited to the question of permitting AT&T to offer special service packages to customers with complex needs and to price those services to reflect economies of scale inherent in these integrated packages. Ad Hoc Comments at 3. Ad Hoc filed similar comments in CC Docket No. 86-421. *See* Decreased Regulation of Certain Basic Telecommunications Services, CC Docket No. 86-421, 2 FCC Rcd 645 (1987). The pleading filed by Ad Hoc in this proceeding, which is not authorized by the Commission's Rules, is dismissed.

[3] It would appear that the ability of AT&T to guarantee the same rate for any other four LATAs would depend upon whether AT&T could itself obtain rates comparable to the rates for DS 3 facilities AT&T has obtained from Diamond State Telephone Company.

[4] *See* AT&T Petition for Limited Waiver of Sections 64.702(D)(2) and 68.110(B) of the Commission's Rules, filed Sept. 14, 1987 (AT&T Waiver Petition). Comments on the petition were filed October 30; reply comments were filed November 20, 1987.

[5] *See* Letter to the Acting Secretary, Federal Communications Commission, from Mark C. Rosenblum, Senior Attorney, AT&T, dated Jan. 11, 1988.

[6] Our summary of pleadings accordingly will omit those that appear to relate to AT&T's original plan to include the NET equipment in the tariff offering.

[7] AT&T designed the Digital Tandem Switched Network Service (DTSN) in response to a request for proposal (RFP) issued by the General Electric Company. *See* AT&T Communications, Transmittal Nos. 895 and 961, 2 FCC Rcd 5493 (1987) (*DTSN Order*). This Bureau instituted an investigation to determine the lawfulness of Transmittals 895 and 961 and, in December, 1987 adopted an Order designating issues for investigation. *See* AT&T Communications, Transmittal Nos. 895 and 961, CC Docket No. 87-568, 2 FCC Rcd 7389 (1987) (*DTSN Designation Order*).

[8] *Id.* ; *see also* US Sprint October Petition at 5-6.

[9] *See* para. 4, *supra*.

[10] *See* IDCMA January Petition at 13-14. This is the sole issue raised by Timeplex, Inc., which suggests that the Commission should require AT&T to disclose whether it will colocate Dupont's CPE, and whether it will afford colocation for other customers' equipment on an equal basis. *See* Comments of Timeplex, Inc., filed Jan. 19, 1988, at 5.

[11] 47 C.F.R. § 61.40; *see* Private Line Rate Structure and Volume Discount Practices, 97 FCC 2d 923 (1984).

[12] *See id.* at 4. This Bureau recently initiated an investigation of AT&T's DTSN tariff. *See* n. 7, *supra*.

[13] *See* AT&T October Reply, filed Oct. 19, 1987, at 5-6; *see also* AT&T February Reply, filed Feb. 2, 1988, at 5-6.

[14] See Private Line Rate Structure and Volume Discount Practices, 97 FCC 2d 923 (1984) (Private Line Guidelines Order); codified at 47 C.F.R. § 61.40.

[15] October Reply at 13. The first two guidelines require that rate structures for the same or comparable services should be integrated and consistent with one another. 47 C.F.R. § 6140(a)(1) and (2).

[16] See note 3, supra.

[17] The equalization requirement refers to the process by which private line tariffs are retargeted so that the earnings of AT&T Communication's various private line services, as a whole, are not at variance with the prescribed rate of return. See AT&T Communications, Transmittal No. 581, Mimeo No. 4620, released May 20, 1986.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-52

In the Matter of

Amendment of Section 73.202(b), RM-6032
Table of Allotments,
FM Broadcast Stations.
(Panama City Beach, Florida)

NOTICE OF PROPOSED RULE MAKING

Adopted: January 26, 1988; Released: March 4, 1988

By the Chief, Allocations Branch:

1. The Commission herein considers a petition for rule making filed by Winstanley Broadcasting, Inc. (Winstanley), permittee for Channel 261A at Panama City Beach, Florida, seeking to substitute Channel 261C2 for Channel 261A, and to modify its Class A permit to specify the Class C2 channel.

2. We believe that the proprosed substitution which could provide for a second wide coverage area station at Panama City Beach, warrants consideration. Using the petitioner's proposed site, Channel 261C2 at Panama City Beach would be short spaced to Channel 262A at Niceville, Florida (MM Docket 86-470), adopted November 23, 1987. A staff study indicates that a site restriction 28.2 kilometers (17.5 miles) southeast of the city would avoid any short spacings.[1]

3. In accordance with our established policy, we shall propose to substitute Channel 261C2 for Channel 261A at Panama City Beach, Florida, and modify the construction permit accordingly. Pursuant to the Commission's Rules, Section 1.420(g), we shall not accept expressions of interest for Channel 261C2 at Panama City Beach. *See , Modification of FM Broadcast Licenses to Higher Class Adjacent and Co - Channels*, 51 FR 20290, June 4, 1986.

4. Comments are invited on the proposal to amend the FM Table of Allotments (Section 73.202(b) of the Rules) with respect to the community listed below:

	Channel No.	
City	Present	Proposed
Panama City Beach, Florida	261A, 286C2	261C2, 286C2

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Howard W. Simcox, Jr.
Bosari & Paxson
2100 M Street, N.W.
Suite 610
Washington, D.C. 20037
(Attorney for petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will

be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] The coordinates for Channel 261C2 at the restricted site are 30-03-06 - 85-33-06.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-68

In the Matter of

Amendment of Section 73.202(b), RM-6187
Table of Allotments,
FM Broadcast Stations.
(Riverside, Pennsylvania)

NOTICE OF PROPOSED RULE MAKING

Adopted: January 27, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Victor A. Michael, Jr. (petitioner) requesting the allocation of Channel 222A to Riverside, Pennsylvania, as the community's first local FM service. Petitioner states that he will apply for the channel, if allocated.

2. Channel 222A can be allocated to Riverside in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.7 kilometers (0.5 miles) west to avoid a short-spacing to Station WMGS, Channel 225B, Wilkes-Barre, Pennsylvania.[1] Canadian concurrence in the allotment is required since Riverside is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

3. We believe the public interest would be served by proposing the allocation of Channel 222A to Riverside since it could provide the community with the its first local FM service. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

	Channel No.	
City	Present	Proposed
Riverside, Pennsylvania	–	222A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Victor A. Michael, Jr.
R.D. 1 Box 59
Benton, Pennsylvania 17814
(Petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See , Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] The coordinates for Riverside are: North Longitude 40o, 57' 18"; West Latitude 76o, 38' 16".

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-67

In the Matter of

Amendment of Section 73.202(b), RM-6178
Table of Allotments,
FM Broadcast Stations.
(Ogdensburg, New York)

NOTICE OF PROPOSED RULE MAKING

Adopted: January 27, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Timothy D. Martz (petitioner) requesting the allocation of Channel 254A to Ogdensburg, New York, as the community's second local FM service. Petitioner states that it will apply for the channel, if allocated.

2. Channel 254A can be allocated to Ogdensburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.8 kilometers (3.0 miles) northeast to avoid a short-spacing to Channel 201A, Brockville, Ontario, and to Station CFLY-FM, Kingston, Ontario, Canada.[1] Canadian concurrence in the allotment is required since Ogdensburg is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

3. We believe the public interest would be served by proposing the allocation of Channel 254A to Ogdensburg, since it could provide the community with its second local FM service. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

	Channel No.	
City	Present	Proposed
Ogdensburg, New York	224A	224A, 254A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

James R. Bayes, Esq.
Jerry V. Haines, Esq.
1776 K Street, N.W.
Washington, D.C. 20006
(Counsel to petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See , Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] The coordinates for Channel 254A at Ogdensburg are: 44o, 42' 57"; 75o, 26', 50".

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-66

In the Matter of

Amendment of Section 73.202(b),	RM-6143
Table of Allotments,	RM-6183
FM Broadcast Stations.	
(Malone and Owls Head, New York)	

NOTICE OF PROPOSED RULE MAKING

Adopted: January 29, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. The Commission has before it two mutually exclusive petitions for rule making filed by: (1) North Country Broadcast Co., Inc. (North Country) requesting the allocation of Channel 243A to Malone, New York, as the community's first local FM service; and (2) Timothy D. Martz (Martz) requesting the allocation of Channel 242A to Owls Head, New York, as its first local FM service. Malone and Owls Head are located approximately 17 kilometers apart. However, the Commission's minimum distance separation requirements stipulate a 64 kilometer separation between first adjacent Class A allotments. North County and Martz both state an intention to apply for their respective channel, if allocated.

2. Channel 243A can be allocated to Malone, without a site restriction, in compliance with the Commission's minimum distance separation requirements to all domestic allotments.[1] It would, however, be approximately 6 kilometers short-spaced to Station CKOI-FM, Channel 245C1, Verdun, Quebec, and approximately 24 kilometers short-spaced to unused and unapplied for Channel 243C1 at Trois Rivieres, Quebec, Canada. Our review of petitioner's proposal confirms that, although short-spaced, the use of Channel 243A at Malone would comply with the interference criteria to the two Canadian allotments as set forth in the U.S.-Canada Working Agreement. We will therefore request Canadian concurrence in the allotment of Channel 243A to Malone as a specially negotiated short-spaced allocation.

3. Section 307(b) of the Communications Act of 1934, as amended, mandates that the Commission allocate broadcast channels "among the several states and communities. . " A community for allocation purposes has been defined as an identifiable population grouping. Generally, if a community is incorporated or is listed in the U.S. Census, that is sufficient information to demonstrate that such a place has social, economic and cultural indicia to qualify it as a "community" for allotment purposes. *See , e.g., Ansley, Alabama*, 46 Fed. Reg. 58688, published December 3, 1983, and *Ellwood, California*, 50 Fed. Reg. 13031, published April 2, 1985. Here, Owls Head is not listed in the 1980 U.S. Census. Therefore, petitioner is requested to submit additional information to demonstrate whether it has any businesses, social organizations and governmental units that identify themselves with Owls Head.

4. Channel 242A can be allocated to Owls Head with a site restriction of 1.0 kilometers (0.65 miles) southwest to avoid a short-spacing to Station CJFM-FM, Channel 240C1, Montreal, Quebec, Canada.[2] Use of this site restriction will cause a 15.5 kilometer short-spacing to Station CFMK-FM, Channel 242B, Kingston, Ontario, Canada. However, a staff study using the U.S. domestic interference criteria shows that Station CJFM-FM's signal would not cause interference within the 60 dBu signal contour of Channel 242A at Owls Head. Therefore, we shall also seek Canadian concurrence in this allotment as a specially negotiated short-spaced allocation.

5. Since Malone and Owls Head are both located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government is required before either channel can be allocated.

6. We believe the public interest would be served by seeking comments on the proposed allotment of Channel 243A to Malone, New York, and Channel 242A to Owls Head, New York, if it is found to be a community for allotment purposes, since interest in providing each community with its first local FM service has been expressed. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the communities listed below, to read as follows:

OPTION I

City	Channel No. Present	Proposed
Malone, New York	--	243A

or OPTION II

Owls Head, New York	--	242A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

8. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Mitchell C. Tackley
President and General Manager
North Country Broadcast Co., Inc.
Porter Road
Malone, New York 12953
(Petitioner for Malone)

James R. Bayes, Esq.
Jerry V. Haines, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
(Counsel to Martz)

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See , Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

10. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] The coordinates for the Malone allotment are: North Latitude 44o, 51' 00"; West Longitude 74o, 17', 42".

[2] The coordinates for Owls Head are: North Longitude 44o, 43',34", West Latitude 74o, 10', 31".

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-116

In the Matter of

Amendment of Section 73.202(b),	RM-5541
Table of Allotments.	
FM Broadcast Stations.	
(Trussville, Alabama)	

REPORTAND ORDER
(Proceeding Terminated)

Adopted: January 27, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. Before the Commission for consideration is the *Notice of Proposed Rule Making* herein, 2 FCC Rcd 2455 (1987), issued in response to a petition filed on behalf of Trussville Broadcasting,Inc. (petitioner), proposing the allotment of Channel 290A to Trussville, Alabama, as that community's first local broadcast service. Supporting comments were filed by petitioner as well as Metro Music. No reply comments were received.

2. We believe the public interest would be served by allotting Channel 290A to Trussville, Alabama, since it could provide a first local broadcast service to the community.

3. As indicated in the *Notice*, Channel 290A can be allotted to Trussville consistent with the minimum spacing requirements contained in Section 73.207(b) of the Commission's Rules, provided the transmitter therefor is restricted to an area at least 2.6 kilometers (1.6 miles) southwest[1] of the community to negate a short-spacing to a pending rule making proposal to allot Channel 290A to Centre, Alabama in MM Docket No. 86-419 (RM-5430).

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 18, 1988,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to Trussville, Alabama, as follows:

City	Channel No.
Trussville, Alabama	290A

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. The window period for filing applications on Channel 290A at Trussville, Alabama, will open on **April 19, 1988,** and close on **May 19, 1988.**

7. For further information concerning this proceeding, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the application process should be addressed to Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] Reference coordinates at restricted site are as follows: 33-36-31; 86-38-01.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-185

In the Matter of

Amendment of Section 73.202(b), RM-5606
Table of Allotments,
FM Broadcast Stations.
(Pine, Arizona)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 27, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. Before the Commission for consideration is the *Notice of Proposed Rule Making* herein, 2 FCC Rcd 3486 (1987), proposing the allotment of Channel 291A to Pine, Arizona, as a first local service, at the request of Thomas Renteria (petitioner). No comments were received from the petitioner. Opposing comments were filed by Station KIHX-FM (Channel 292A), Prescott Valley, AZ.[1]

2. Although Channel 291A was proposed as requested, we questioned whether Pine is a *bona fide* community for allotment purposes since it is not listed in the 1980 U.S. Census, nor any other officially recognized source. Accordingly, we requested petitioner to provide sufficient information to demonstrate whether Pine has any business, social organizations or governmental units that identify themselves therewith to establish community status. Petitioner failed to respond to the *Notice*. Thus, the "community" issue need not be addressed.

3. Absent an expression of interest in the use of the proposed channel, it is the Commission's general policy to refrain from making a new allotment to a community. *See, e.g., Williams, Arizona*, 47 Fed. Reg. 20827, published May 14, 1982, and paragraph 2 of the Appendix to the *Notice*. Therefore, since there has been no such interest here, we will dismiss petitioner's proposal.

4. In view of the above, IT IS ORDERED, That the petition of Thomas Renteria requesting the allotment of Channel 291A to Pine, Arizona, IS HEREBY DISMISSED.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] In view of the determination reached herein, the opposing comments are rendered moot and thus merit no discussion.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-318

In the Matter of

Amendment of Section 73.202(b), RM-5825
Table of Allotments,
FM Broadcast Stations.
(Tri-City, Oregon)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 29, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. At the request of Robert W. Larson d/b/a Gee Jay Broadcasting (petitioner), the Commission has before it the *Notice of Proposed Rule Making*, 2 FCC Rcd 5123 (1987), proposing the allocation of Channel 288A to Tri-City, Oregon, as the community's first local FM service. Comments were filed by the petitioner, William L. Zawila (Zawila) and P-N-P Broadcasting (PNP) and reply comments were filed by the petitioner and Line-of-Sight Broadcasting, Inc. (Line-of-Sight).

2. Petitioner and Zawila both support the allotment of Channel 288A to Tri-City and state an intention to apply for the channel, if allocated. PNP is the proponent for the allotment of Channel 290C2 to Vancouver, Washington, and related changed at Corvallis and Coos Bay, Oregon. (MM Docket No. 87-523, 2 FCC Rcd 7078 (1987). PNP states that the allotment of Channel 288A to Tri-City could adverely affect the future ability of Station KYNG-FM at Coos Bay, Oregon, to upgrade to Class C1 status should it become necessary for Station KYNG-FM to change its transmitter site. Therefore, PNP proposes that Channel 282, as either a Class A or Class C2 facility be allocated to Tri-City in lieu of the proposed Channel 288. PNP submits that Channel 282, as either a Class A or C2, can be allocated to Tri-City in compliance with the Commission's minimum distance separation requirements, without the imposition of a site restriction. It also states that it will apply for Channel 282C2, if allocated to Tri-City.

3. Petitioner opposes the allotment of Channel 282 based on its belief that the channel cannot be used at Tri-City in compliance with the Commission's minimum distance separation requirements. However, in a late-filed pleading withdrawing its objection, it states that after an extensive survey of the area, it has found two transmitter sites which can be used in compliance with the Commission's Rules.[1] Therefore, it urges the allocation of Channel 282C2 and states that it will apply for its use, if allocated.

4. In its reply, Line-of-Sight, the proposed assignee of Station KHUG-FM, Channel 286C1, at Phoenix, Oregon, states that it desires to upgrade its station to Class C status. It notes that the improvement of Station KHUG-FM's facilities would be precluded by the allotment of Channel 288A at Tri-City. Therefore, it supports the allocation of the non-conflicting Channel 282, as either a Class A or C2, as proposed by PNP.

5. We believe the public interest would be served by allocating Channel 282C2 to Tri-City, as its first wide coverage area FM service, since an interest in its use has been expressed. Channel 282C2 can be allocated to Tri-City in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.[2] Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 18, 1988,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Tri-City, Oregon	282C2

6. The window period for filing applications will open on **April 19, 1988,** and close on **May 19, 1988.**

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTES

[1] We have accepted petitioner's late-filed pleading for consideration since it contains information helpful to the resolution of this proceeding.

[2] The coordinates for this allotment are: North Latitude 42o, 58', 51"; West Longitude 123o, 19', 19".

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-70

In the Matter of

Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Lincoln City, Oregon) — RM-6163

NOTICE OF PROPOSED RULE MAKING

Adopted: February 5, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Matrix Media, Inc. (petitioner), requesting the substitution of Channel 244C2 for Channel 244A at Lincoln City, Oregon, and the modification of its license for Station KCRF to specify the higher powered channel. Petitioner states that it will apply for the channel, if allocated. Channel 244C2 can be allocated to Lincoln City in compliance with the Commission's minimum distance separation requirements and can be used at Station KCRF's present transmitter site.[1]

2. We believe the public interest would be served by proposing the substitution of Channel 244C2 for Channel 244A at Lincoln City since it could provide the community with expanded radio service. As requested, we shall also propose to modify the license of Station KCRF to specify operation on the higher powered channel. In accordance with Section 1.420(g) of the Commission's Rules concerning adjacent channel upgrades, we shall not accept competing expressions of interest in use of the channel at Lincoln City. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

	Channel No.	
City	Present	Proposed
Lincoln City, Oregon	244A	244C2

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Roger J. Metzler
Farrand, Cooper, Metzler & Bruiniers
P.O. Box 7329
San Franciso, California 94120
(Counsel to petitioner)

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See , Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should

also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] The coordinates for this allotment are: North Latitude 44o, 52', 30"; West Longitude 123o, 59', 03".

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-71

In the Matter of

Amendment of Section 73.202(b), RM-6165
Table of Allotments,
FM Broadcast Stations.
(Manchester, Ohio)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 5, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Ohio Kentucky Radio Company (petitioner), requesting the allocation of Channel 267A to Manchester, Ohio, as the community's first local FM service. Petitioner states that it will apply for the channel, if allocated. Channel 267A can be allocated to Manchester in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.[1]

2. We believe the public interest would be served by proposing the allocation of Channel 267A to Manchester since an interest has been expressed in providing the community with its first local FM service. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

	Channel No.	
City	Present	Proposed
Manchester, Ohio	–	267A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

James Wagner, President
Ohio Kentucky Radio Company
P.O. Box 14083
Covington, Kentucky 41014
(Petitioner)

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See , Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] The coordinates for this allotment are: North Latitude 38o, 41', 18"; West Longitude 83o, 36', 24".

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-72

In the Matter of

Amendment of Section 73.202(b), RM-6157
Table of Allotments,
FM Broadcast Stations.
(Brookings, South Dakota)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 5, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Dakota Broadcasting, Inc. (petitioner), requesting the substitution of Channel 229C2 for Channel 232A at Brookings, South Dakota, and the modification of its license for Station KGKG to specify the higher powered channel. Channel 229C2 can be allocated to Brookings in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.9 kilometers (13.6 miles) northwest to avoid a short-spacing to Station KKRC, Channel 228A, Sioux Falls, South Dakota.[1] We note that petitioner failed to state its intention to apply for the channel, if allocated, and is therefore requested to do so in comments.

2. We believe the public interest would be served by proposing the allocation of Channel 229C2 to Brookings since it could provide the community with its first wide coverage area FM service. As requested, we shall also propose to modify the license of Station KGKG to specify operation on Channel 229C2. In accordance with Section 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest in use of the higher powered channel at Brookings. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

	Channel No.	
City	Present	Proposed
Brookings, South Dakota	232A	229C2

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Ross A. Johnson
Vice President, Dakota Broadcasting, Inc.
51 Broadway
P.O. Box 8310
Fargo, North Dakota 58109-8310
(Petitioner)

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See , Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits

or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] The coordinates for this allotment are: North Latitude 44o, 30', 07"; West Longitude 96o, 51', 30".

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-73

In the Matter of

Amendment of Section 73.202(b), RM-6244
Table of Allotments,
FM Broadcast Stations.
(Ouray, Colorado)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 5, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. Ouray Broadcasting Co., Inc., licensee of Station KURA(FM) (Channel 285A), Ouray, Colorado, has filed a petition for rule making seeking the substitution of Channel 289C2 for Channel 285A and modification of its license accordingly to specify operation on the higher powered channel.

2. We believe the proposal warrants consideration in view of the expressed desire for a wide coverage area FM station at Ouray to serve the public interest. A staff engineering study confirms that the allotment of Channel 289C2 can be accommodated at the petitioner's proposed site 19.8 kilometers (12.3 miles) northwest[1] of the community, in conformity with the minimum distance spacing requirements specified in Section 73.207(b) of the Commission's Rules.

3. In light of the above, we shall propose to substitute Channel 289C2 for Channel 285A at Ouray, Colorado, as requested. Additionally, we shall propose to modify the Class A license of Station KURA(FM) in the event Channel 289C2 is substituted for Channel 285A at Ouray. However, consistent with Commission precedent, should another interest in the Ouray proposal be expressed, the modification could not occur unless at least one additional equivalent channel is available to accommodate other expressions of interest.[2] *See , Modification of FM and TV Station Licenses*, 98 FCC 2d 916 (1984), and Section 1.420(g) of the Commission's Rules.

4. Since the proposal could provide a first wide coverage area broadcast service to Ouray, Colorado, the Commission considers it appropriate to seek comments on the proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, as follows:

	Channel No.	
City	Present	Proposed
Ouray, Colorado	285A	289C2

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner's consultant, as follows:

Timothy C. Cutforth, P.E.
Vir James P.C.
3137 W. Kentucky Avenue
Denver, CO 80219

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] Reference coordinates of petitioner's proposed site are as follows: 38-10-54, 107-46-29.

[2] In this regard, petitioner advises that should another interest be expressed, at least two other equivalent channels are available for allotment to Ouray.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-74

In the Matter of

Amendment of Section 73.202(b), RM-6063
Table of Allotments,
FM Broadcast Stations.
(Sheridan, Arkansas)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 5, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. Ainsley Communications Corp. (petitioner), licensee of Station KQLV(FM) (Channel 272A), Sheridan, Arkansas, has filed a petition for rule making seeking the substitution of FM Channel 275C2 for Channel 272A and modification of its license accordingly. Petitioner premises its proposal on a desire to provide substantially improved service to its community of license and surrounding area.

2. We believe the proposal warrants consideration in view of the expresed desire for a wide coverage area FM station to serve the public interest. A staff engineering study has determined that the proposed allotment of Channel 275C2 at Sheridan can be achieved consistent with the minimum distance separation requirements specified in Section 73.207(b) of the Commission's Rules, provided the transmitter is sited in an area 17.8 kilometers (11.1 miles) west of the community.[1] Such restriction is required to avoid short spacing to Station KFXE(FM) (Channel 222C1), Pine Bluff, Arkansas, and to the construction permit issued to Station KHOZ-FM (Channel 275C), Harrison, Arkansas.[2]

3. In consideration of the above, we shall propose to modify the Class A license of Station KQLV(FM), as requested by petitioner, in the event Channel 275C2 is substituted for Channel 272A at Sheridan. In accordance with the provisions of Section 1.420(g) of the Commission's Rules, modification of the license of Station KQLV(FM) may be accomplished without demonstrating the availabiity of an additional equivalent channel for use by other interested parties. *See* , *Report and Order*, MM Docket 85-313, 51 FR 20290, June 4, 1986.

4. Accordingly, in order to provide Sheridan with the opportunity to receive its first wide coverage area FM station, the Commission proposes to amend the FM Table of Allotments, Section 73.202(b) of the Commisison's Rules with respect to that community, as follows:

	Channel No.	
City	Present	Proposed
Sheridan, Arkansas	272A	275C2

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner's counsel, as follows:

James R. Bayes, Esq.
Merilyn M. Strailman, Esq.
Edward A. Yorkgitis, Jr., Esq.
Wiley, Rein & Fielding
1776 K St., N.W.
Washington, D.C. 20006

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the

Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] Reference coordinates of the restricted site are as follows: 34-15-33; 92-34-56.

[2] Although the proposal is short-spaced to Station KHOZ-FM's presently licensed Class C1 facilities, the required separation is met based upon its construction permit to relocate its transmitter and increase antenna height to maintain a Class C status (BPH860707MT). Thus, final action with respect to the Sheridan modification proposal must await the issuance of a license to Station KHOZ-FM's to cover the construction permit.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-320

In the Matter of

Amendment of Section 73.606(b), RM-5906
Table of Allotments,
Television Broadcast Stations.
(Albuquerque, New Mexico)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 27, 1988; Released: March 3, 1988

By the Chief, Allocations Branch:

1. At the request of Exponential Broadcasting Association (petitioner), the Commission has before it the *Notice of Proposed Rule Making*, 2 FCC Rcd 5165 (1987), proposing the allocation of Channel 50 to Albuquerque, New Mexico, as the community's seventh local television service. Petitioner filed comments reiterating its intention to apply for the channel, if allocated.[1] Channel 50 can be allocated to Albuquerque in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.[2]

2. We believe the public interest would be served by allocating Channel 50 to Albuquerque since an interest has been expressed in providing the community with an additional television service. Albuquerque is not one of the communities affected by the recently imposed freeze on new allotments within the minimum co-channel separation distance of thirty major markets. *See Order*, 52 FR 28346, July 29, 1987. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 18, 1988,** the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Albuquerque, New Mexico	4+, *5+, 7+, 13+, 14-, 23-, *32+, 41, 50

3. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

4. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTES

[1] Informal comments in opposition to the allotment were filed by Ronald E. Steiner, President, The Marketing Communications Group, Albuquerque. Steiner failed to serve a copy of his comments on the petitioner, as required by paragraph 4 of of the Appendix to the *Notice*, and Section 1.420 of the Commission's Rules. Therefore, his comments constitute an *ex parte* presentation and shall not be considered herein.

[2] The coordinates for this allotment are: North Latitude 35o, 05', 00"; West Longitude 106o, 39', 00".

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.

Petition for Waiver of
Sections 67.621(a)(4) and
36.621(a)(4) of the
Commission's Rules

ORDER

Adopted: February 22, 1988; Released: March 4, 1988

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On July 2, 1987, the National Exchange Carrier Association, Inc. (NECA) filed a petition requesting a waiver of two provisions of the Commission's rules, the former Section 67.621(a)(4)[1] and the new Section 36.621(a)(4),[2] which became effective January 1, 1988, to permit NECA to allocate General, Other Expenses, and Taxes based on gross investment rather than net investment in computing the level of the Universal Service Fund (USF). NECA requests the waiver to allow it to use gross investment in allocating General, Other Expenses, and Taxes for the 1987 data submission that the Local Exchange Carriers (LECs) submit to NECA and to approve the previous use of gross investment for allocating these overheads and taxes for the 1985 and 1986 data submissions.[3] Finally, NECA requests a continuing waiver of Section 36.621(a)(4) to allow the allocation of these overheads and taxes based on gross investment in future USF computations pending further revision of the rules. For the reasons discussed below, we grant NECA's waiver request on an interim basis to allow it to use gross investment rather than net investment in allocating General, Other Expenses, and Taxes to compute the level of the USF. We grant this waiver to allow the Commission sufficient time to determine whether to issue a Notice of Proposed Rule Making (NPRM) regarding the appropriate allocation factor to be used in computing the level of the USF. We also decline to require NECA to make retroactive adjustments in the level of USF support.

II. NECA'S PETITION AND PARTIES' COMMENTS

2. NECA states that gross investment is a more appropriate means of allocation than net investment because the use of gross investment is consistent with the Commission's traditional jurisdictional allocation methodology and produces greater benefits for smaller, high cost LECs. NECA argues that the Commission has generally used gross investment as a basis for expense allocation, such as in the jurisdictional allocations in the Separations Manual. NECA believes that gross investment is especially appropriate for allocating General, Other Expenses, and Taxes, since these costs are incurred during the current period and should not be affected by the amount by which the plant has been depreciated.

3. NECA also argues that the use of net investment as a basis for allocation will be disadvantageous to the smaller, high cost LECs in contravention of the Commission's goals in establishing the USF. NECA asserts that the beneficiaries of the net investment allocation are the high growth companies rather than truly high cost companies. NECA indicates that 411 small LECs (LECs with less than $40 million per year in gross revenues) would experience decreases in USF support and seventeen would be totally disqualified from receiving support if it were precluded from using the gross investment allocation method.

4. Finally, the use of gross investment should be approved, NECA argues, because use of the gross investment allocation ratio does not increase the overall size of the fund. NECA asserts that the use of net investment would increase the nationwide average loop costs by approximately 3.5 percent. NECA states that in computing the USF level for the 1985 and 1986 data submissions, it inadvertently used gross instead of net investment. It argues that the effect on the total fund size for those years was less than 2 percent. NECA submits that due to the use of gross investment rather than net investment in the 1985 data submission, it distributed approximately $67 thousand less support. NECA also states that due to the use of gross investment rather than net investment in the 1986 data submission, it distributed approximately $1.8 million less support.

5. Six parties filed comments, and two parties filed reply comments in support of NECA's waiver request.[4] USTA states that the gross investment allocation ratio is the appropriate means to calculate loop costs for high cost assistance and that the Commission's rules should have prescribed a ratio based on gross investment. It argues that the industry practice is to use the gross investment allocation ratio as the standard when allocating costs. In supporting NECA's waiver request, NTCA, the Associations, OPASTCO, and Pacific Bell note that the use of gross investment is a rational allocation methodology that is consistent with the Commission's traditional jurisdictional separations methodologies.

6. The commenting parties generally agree that a gross investment allocation produces greater benefits for smaller, high cost LECs and that a net investment allocation produces greater benefits for the larger, high cost LECs, particularly those in high growth areas. USTA states that the gross investment allocation ratio has slightly altered the distribution of high cost support among LECs. NTCA agrees with NECA that distortions can be created if net investment is used as an allocation factor and states that incorporating relative levels of depreciation reserves into the allocation skews the allocation in favor of high growth characteristics instead of truly high cost factors, thus undermining the goals the fund was designed to achieve. In support of NECA's claim that using net investment would increase average loop costs nationwide, Pacific Bell states that using net investment in allocating General, Other Expenses, and Taxes would increase its loop costs by approximately 4.7 percent.

7. The parties support NECA's request that the Commission approve NECA's prior use of gross investment for the 1985 and 1986 submissions and state that disruptive retroactive effects will occur if the waiver is denied and

NECA is required to redistribute its past USF distributions. NTCA, the Associations, and OPASTCO also note that no apparent objections have been raised regarding NECA's past and projected use of the gross investment allocation factor.

8. The parties also support the use of a gross investment allocation ratio for future years. USTA favors a change in the rules and argues that this approach would maintain the integrity of the USF allocation process, confirm the intended effect of the existing rule, and would not penalize any individual LEC. In reply comments, USTA reiterates its support for NECA's waiver request and states that the burden of using the net investment allocation ratio is not offset by any actual benefits. In reply comments, TSTCI also supports the grant of the waiver in its entirety.

III. DISCUSSION

9. We have decided to grant NECA's waiver request on a limited basis to provide the Commission with the opportunity to determine whether to issue an NPRM regarding the appropriate allocation factor to be used in calculating the USF. We believe a grant of the waiver request for the data submission due June 30, 1988, will give the Commission sufficient time to consider whether to issue an NPRM regarding the use of gross investment in calculating the level of the USF. We therefore grant NECA's requested waiver through December 31, 1988. If the Commission issues an NPRM before that date, the waiver is extended until the resolution of the proceeding. If the Commission does not issue an NPRM by **December 31, 1988,** the waiver will expire on that date.

10. This waiver includes any requirement that NECA make retroactive adjustments for the 1985, 1986, and 1987 data submissions in which NECA used gross investment rather than net investment to calculate the USF. We will not require NECA to make retroactive adjustments of the USF. The books of account kept by the carriers and NECA are now closed for those years. The Commission has been reluctant to make adjustments outside the accounting period due to the hardship it would impose on the industry. Moreover, NECA's data shows that the impact of using net rather than gross investment for the 1985 and 1986 data submissions would be less than 2 percent. Given this impact, we believe that the cost of requiring retroactive adjustments outweighs any benefit that could be obtained by making such adjustments. We therefore decline to require NECA to make retroactive adjustments of the level of USF support.

IV. ORDERING CLAUSE

11. Accordingly, IT IS ORDERED, That the petition for waiver of Section 36.621(a)(4) of the Commission's rules filed on July 2, 1987, by the National Exchange Carrier Association IS GRANTED, subject to the conditions described herein.

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

FOOTNOTES

[1] 47 C.F.R. Sec. 67.621(a)(4).

[2] Separations Manual, 52 Fed. Reg. 17,228, 17,246 (1987) (to be codified at 47 C.F.R. Sec. 36.621(a)(4))(effective January 1, 1988). *See* Amendment of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Federal-State Joint Board, 2 FCC Rcd 2639 (1987).

[3] The data submission filed with the Commission on September 30 of each year is compiled from data for the previous year provided to NECA by telephone companies pursuant to Section 67.611 of the Commission's rules. The results in each data submission are used in the jurisdictional allocations underlying the cost support data for the access charge tariffs filed in October of that year.

[4] A pleading cycle for comments was established in Public Notice, Pleading Cycle Established for NECA Petition for Waiver of Sections 67.621(a)(4) and 36.621.(a)(4) of the Commission's Rules, 2 FCC Rcd 5534 (1987). Comments were filed on August 28, 1987, and reply comments on September 11, 1987. Comments were filed by the United States Telephone Association (USTA), National Telephone Cooperative Association (NTCA), Georgia Telephone Association and South Carolina Telephone Association (the Associations), the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO), Pacific Bell, and Iowa Telephone Association. Reply comments were filed by Texas Statewide Telephone Cooperative, Inc. (TSTCI) and USTA.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-45

In the Matter of

Amendment of Section 73.202(b), RM-6008
Table of Allotments,
FM Broadcast Stations.
(Estherville, Iowa)

NOTICE OF PROPOSED RULE MAKING

Adopted: January 14, 1988; Released: March 4, 1988

By the Chief, Allocations Branch:

1. Pursuant to the request of Jacobson Broadcasting Company, Inc. (petitioner), licensee of Station KILR-FM, Channel 240A, Estherville, Iowa, the Commission considers herein a petition for rule making proposing to modify its license for a Class A station operating on Channel 240 to a Class C2 station operating on the same channel. Petitioner has submitted information in support of the proposal.

2. Our engineering study shows that the allocation of Channel 240C2 to Estherville, Iowa will require a site restriction of at least 31.5 kilometers (19.6 miles) northwest of Estherville to avoid short spacing to Station KDHL-FM, Fairbault, Minnesota and Station KQWC(FM), Webster, Iowa.[1] The transmitter site proposed by petitioner also specifies this distance to overcome existing short spacing problems. These distances, however, are too far for the Commission to assume that a station operating on Channel 240C2 could provide Estherville with the required 70 dBu city-grade coverage. Therefore, the petitioner is required to provide a study showing that Station KILR-FM could provide the required 70 dBu signal to all of Estherville from a site meeting the minimum mileage separation requirements.

3. As requested by petitioner, we shall propose to modify the license of Station KILR-FM from Channel 240A to Channel 240C2. In accordance with Section 1.420(g) of the Rules, we shall not accept competing expressions of interest nor require that the petitioner demonstrate the availability of an additional equivalent channel.

4. Accordingly, in order to provide Estherville, Iowa with its first wide area coverage FM service, the Commission proposes to amend the FM Table of Allotments, Section 73.202(b) of the Rules, with regard to the following community:

	Channel No.	
City	Present	Proposed
Estherville, Iowa	240A	240C2

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 25, 1988,** and reply comments on or before **May 10, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Lauren A. Colby, Esq.
10 East Fourth Street
P.O. Box 113
Frederick, MD 21701
(Counsel to Petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Leslie K. Shapiro. Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the

Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] The coordinates for this allocation are: North Latitude 43o, 36', 24"; West Longitude 95o, 06', 40".

Before the
Federal Communications Commission
Washington, D.C. 20554

PR Docket No. 87-133

In the Matter of

Amendment of Parts 80 and 87 of the Commission's Rules to authorize additional types of modulation for emergency position indicating radiobeacons and emergency locator transmitters in the maritime and aviation services.

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 16, 1988; Released: March 4, 1988

By the Commission:

1. This *Report and Order* amends Parts 80 and 87 of the Commission's Rules to permit additional types of modulation for Emergency Position Indicating Radiobeacons (EPIRBs) and Emergency Locator Transmitters (ELTs).

2. On May 27, 1987, the Commission released a *Notice of Proposed Rule Making* proposing to amend the Commission's maritime and aviation services Rules to add continuous wave (CW) telegraphy and voice (telephony) modulation to the classes of emission authorized for use by EPIRBs and ELTs.[1] This action responded to a request filed by ARNAV Systems, Inc. (ARNAV).

3. An EPIRB is a small battery-powered transmitter installed in a buoy carried by ships. In the event of distress an EPIRB may be activated automatically or manually. An ELT is a small transmitter carried by an aircraft. In the event of a crash it is activated automatically. EPIRBs and ELTs transmit identical homing signals to alert others of the distress situation and to assist search and rescue units in "homing-in" on the aircraft or vessel. The Commission's Rules authorize EPIRBs and ELTs to operate on two frequencies, 121.500 MHz and 243.000 MHz. The frequencies are modulated by a distinctive non-voice swept audio signal within the range of 300 Hz and 1600 Hz using A3N emission.[2]

4. In 1985 the Federal Aviation Administration (FAA) published a Technical Standard Order (TSO) [3] titled "TSO-C91a, Emergency Locator Transmitter (ELT) Equipment" (TSO-C91a). This TSO allows CW (A1A) and voice (A3E) modulation in addition to the current non-voice swept audio (A3N) modulation for ELTs. These optional modulation techniques were included to permit the use of enhanced detection and homing capabilities. TSO-C91a incorporated by reference the technical standards contained in the Radio Technical Commission for Aeronautics (RTCA)[4] document, "Minimum Operational Performance Standards for Emergency Locator Transmitters," Document RTCA/DO-183 (RTCA/DO-183).

5. ARNAV has developed an ELT that transmits a digitally synthesized voice signal as well as the compulsory swept audio signal. ARNAV's ELT automatically interrupts the swept audio signal every three minutes with the digitally synthesized voice, which provides the aircraft identification number, the time the ELT was activated and, in some cases, the aircraft coordinates. ARNAV submitted an application to the Commission for type acceptance of its device and a request for authorization to use ELTs that meet the requirements of TSO-C91a.

6. Prior to initiating this proceeding the staff conferred with the FAA, the United States Coast Guard (USCG) and the United States Air Force (USAF) concerning ARNAV's requests. The FAA indicated that ARNAV's ELT meets the requirements of TSO-C91a. USCG and USAF, the two agencies responsible for domestic search and rescue, stated that they believed the automatic voice activation feature would aid search and rescue operations.[5]

7. In view of the support of the FAA, USCG and USAF for expanding the types of modulation available to ELT devices, we proposed in the *NPRM* to revise the Rules to permit the manufacture and use of such ELTs. Additionally, since the technical characteristics and the use of EPIRBs are identical to those of ELTs we also proposed to revise the Rules for EPIRBs. We stated that these new EPIRBs and ELTs would improve the detection of distress situations as well as aid search and rescue operations. We pointed out that the use of CW or voice modulation would be optional and in addition to the mandatory swept audio signal. Further we proposed to permit the operation of such EPIRBs and ELTs under existing ship and aircraft station licenses. 2 FCC Rcd at 3175, para. 6.

8. Although the *NPRM* was primarily concerned with the expansion of CW and voice modulation for existing terrestrial EPIRBs and ELTs, we noted that RTCA/DO-183 allows at least thirty percent of the total power emitted during each sweep cycle of the audio frequencies on 121.500 MHz to be contained within +30 Hz of the reference carrier frequency. On 243.000 MHz at least thirty percent of the total power emitted during each sweep cycle of the audio frequencies is allowed to be contained within +60 Hz of the reference carrier frequency. These standards would provide a more clearly defined carrier signal to aid satellite detection. Therefore, we requested comments on whether the Rules should be amended to allow EPIRBs and ELTs to utilize this power distribution as described in RTCA/DO-183.

9. The following parties filed comments: Digital Air Systems, Inc. (DAS), National Aeronautics and Space Administration (NASA), Radio Technical Commission for Maritime Services (RTCM), and USCG.[6] DAS filed reply comments.

10. All commenters supported the addition of CW and voice modulation in EPIRBs and ELTs. NASA, RTCM and DAS noted, however, that in the aviation service there are many voice transmissions on 121.500 MHz that are not distress related. Therefore, they argued, the swept tone modulation is essential to identify distress transmissions to search and rescue units. They recommended that each transmission of CW or voice modulation be limited to no more than ninety seconds and that it be followed by at least three minutes of the mandatory swept tone modulation. *See* Comments of NASA at 2. The USCG recommended that a synthesized voice transmission include

words identifying it as a "recording." The USCG argued that this would avoid confusing such transmissions with calls from persons. Comments of USCG at 1.

11. We agree with the commenters that CW and voice transmissions should be time-limited to avoid confusion and to assist search and rescue efforts. Accordingly, we are amending the Rules to authorize CW and voice modulation as proposed. We are also requiring that each synthesized and pre-recorded voice message be identified as "a recording," and we are limiting the length of these transmissions to ninety seconds, as recommended by the commenters. Although not precisely accurate in the case of synthesized voice transmissions, the words "this is a recording" readily convey the information that a person is not transmitting the message.

12. NASA stated that laboratory and field tests show that the COSPAS/SARSAT ground stations[7] detect and determine accurately the position of EPIRBs and ELTs if the carrier frequency does not shift more than +30 Hz when the type of modulation is changed from A3N to A3E or A1A, or vice versa. For this reason NASA requested that the rules be amended to limit the maximum carrier frequency shift to +30 Hz when the type of modulation is changed. NASA Comments at 2. RTCM supported the NASA recommendation. DAS in its reply stated that the maximum carrier frequency shift of +30 Hz is too restrictive. It suggested that a carrier frequency shift of +100 Hz would be more appropriate. DAS also stated that there is no standard procedure for the tests necessary to verify this specification. Reply Comments of DAS at 2.

13. Additionally, RTCM and NASA recommended that on 121.500 MHz we require at least thirty percent of the total power emitted during each sweep cycle of the audio frequencies to be contained within +30 Hz of the reference carrier frequency. On 243.000 MHz they recommended that we require at least thirty percent of the total power emitted during each sweep cycle of the audio frequencies to be contained within +60 Hz of the reference carrier frequency. Comments of RTCM at 4 and 5; Comments of NASA at 3. USCG urged that these rule changes become effective (a) April 2, 1988, for all manufactured Class A and Class B EPIRBs, (b) July 2, 1988, for all newly installed Class A EPIRBs that are used to satisfy USCG carriage equipment requirements, and (c) August 2, 1991 for all Class A EPIRBs that are used to satisfy USCG carriage equipment requirements regardless of the date of installation. Comments of USCG at 3. In connection with this request DAS pointed out that EPRIBs and ELTs participate in the same distress network. Therefore, in order to achieve optimum system benefit DAS recommended that the EPIRB mandatory requirements should also be applicable to ELTs. Comments of DAS at 3.

14. Because EPIRBs and ELTs are life saving devices, we must adopt technical standards that permit the devices to operate effectively with national and international search and rescue systems. Otherwise, the devices would be unable to perform adequately the very function for which they exist. We are, therefore, adopting Rules, as recommended by NASA, RTCM and USCG requiring EPIRBs and ELTs to have a +30 Hz maximum carrier frequency shift and when operating on 121.500 MHz at least thirty percent of the total power emitted during each sweep cycle of the audio frequencies must be contained within +30 Hz of the reference carrier frequency. When operating on 243.000 MHz at least thirty percent of the total power emitted during each sweep cycle of the audio frequencies must be contained within +60 Hz of the reference carrier frequency. USCG notes that the manufacturer's cost increase to implement these requirements is estimated to be less than $2.00 per unit. USCG Comments at 3. Further, it appears that DAS's reply comment that +30 Hz is too restrictive may be based on the use of different test equipment and procedures from those used by NASA. We will work with NASA to develop a bulletin to address the appropriate test equipment and test procedures to be used for measuring the characteristics of these new EPIRBs and ELTs.

15. We feel, however, that the nearness of the effective dates proposed by the USCG will not allow the maritime and aviation industries sufficient time to implement these mandatory requirements. Accordingly, we are requiring that for EPIRBs the frequency shift and carrier power distribution requirements become effective October 1, 1988, for newly manufactured EPIRBs; April 1, 1989, for newly installed Class A EPIRBs; and August 1, 1991, for Class A EPIRBs used to satisfy USCG carriage requirements. We also are requiring that newly manufactured ELTs meet the frequency shift and carrier distribution standards effective October 1, 1988.

16. Additionally, DAS stated that in an ELT developed by ARNAV the vocalized information can also be transmitted using a 0.5 second burst of 300 baud AFSK modulated carrier at the end of the voice transmission. Consequently, DAS requested that the transmission of Morse, ASCII and other data codes be allowed. Comments of DAS at 3. We believe that the use of a variety of data codes will cause a proliferation in the types of distress signals transmitted. This condition could confuse search and rescue units and thus delay rescue efforts. Accordingly, we shall not authorize such data codes until search and rescue organizations agree on specific codes for use by EPIRBs and ELTs. In connection with this issue we point out that the CW tranmissions authorized in the Rules are not coded. They consist of a burst of the unmodulated carrier frequency to be used specifically by search and rescue units for radio determination and homing purposes.

17. The rule changes adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease the burden hours imposed on the public.

18. We certify that Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) does not apply to this rule making proceeding because it will not have a significant economic impact on a substantial number of small entities. The changes proposed herein will have a minor beneficial effect on the maritime and aviation communities by permitting the use of additional types of modulation in EPRIBs and ELTs and by enhancing the detection of EPIRB and ELT signals by satellites. The increased cost to manufacturers to implement the new mandatory technical standards is estimated to be less than $2.00 per unit.

19. For these reasons stated above IT IS ORDERED that under the authority contained in Sections 4(i) and 303(g) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(g) and (r), the Commission's Rules ARE AMENDED as set forth in the Appendix below, effective **April 18, 1988.** In accordance with the Administrative Procedure Act, 5 U.S.C. § 552(a),

we incorporate FAA document TSO-C91a by reference into Parts 80 and 87 of the Commission's Rules. This document is reasonably available to persons affected through the Commission's Private Radio Bureau or at the FAA. Incorporation by reference will avoid unnecessary duplication in the Rules.

20. IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

21. A copy of this *Report and Order* shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

APPENDIX

Parts 80 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. Part 80 - Stations in the maritime services.

1. The authority citation for Part 80 continues to read as follows:

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. In § 80.207(d), the emission designators under Classes of Emission in the Distress, Urgency and Safety frequencies 121.500 MHz and 243.000 MHz are revised to read as follows:

§ 80.207 Classes of Emission

* * * * *

(d) ***

Types of stations	Classes of Emission
* * * * *	
Distress, Urgency and Safety [8,9]	
500 kHz[10]	A2A and A2B or H2A and H2B
2182 kHz[10, 11]	A2B, A3B, H2B, H3E J2B, and J3E
8364 kHz	A2A, H2A
121.500 MHz	A3E, A3N, NON
123.100 MHz	A3E
156.750 and 156.800 MHz	G3E, G3N
243.000 MHz	A3E, A3N, NON

* * * * *

3. In § 80.223 paragraph (d) is revised to read as follows:

§ 80.223 Special requirements for survival craft stations.

* * * * *

(d) When an EPIRB is part of a survival craft station the EPIRB portion must be capable of transmitting only on the frequencies 121.500 MHz and 243.000 MHz with A3E, A3N and NON emissions.

4. In § 80.1053 paragraphs (a)(5), (6), (7), (8), (9), (10), (11) and (12) are renumbered (a)(6), (7), (9), (10), (11), (12), (13) and (14), respectively; subparagraph (a)(4) is revised; subparagraphs (a)(5) and (a)(8) are added; subparagraph (a)(7) of the newly renumbered subparagraphs is revised; and paragraph (c) is revised to read as follows:

§ 80.1053 Special requirements for Class A EPIRB stations.

(a) * * *

* * * * *

(4) Use A3N emission on a mandatory basis and A3E and NON emissions on an optional basis on the frequencies 121.500 MHz and 243.000 MHz;

(5) Transmission of A3E or NON emission must not exceed 90 seconds and must be followed by a transmission of at least three minutes of A3N emission; each transmission of a synthesized and/or pre-recorded voice message must be preceded by the words "this is a recording";

* * * * *

(7) The types of emissions for EPIRBs must be in accordance with those specified in the Federal Aviation Administration (FAA) Technical Standard Order (TSO) Document TSO-C91a titled "Emergency Locator Transmitter (ELT) Equipment" dated April 29, 1985. TSO-C91a is incorporated by reference in accordance with 5 U.S.C. 552(a). TSO-C91a may be obtained from the Department of Transportation, Federal Aviation Administration, Office of Airworthiness, 800 Independence Avenue, S.W., Washington, D.C. 20591;

(8) EPIRBs manufactured effective October 1, 1988, or in order to satisfy USCG equipment carriage requirements are either newly installed in a ship station effective April 1, 1989, or regardless of the date of installation are used in a ship station effective August 1, 1991, must have in emissions A3N, A3E and NON a clearly defined carrier frequency distinct from the modulation sidebands. On 121.500 MHz at least thirty percent of the total power emitted during each sweep cycle of the audio frequencies (A3N emission) must be contained within ± 30 Hz of the reference carrier frequency. On 243.000 MHz at least thirty percent of the total power emitted during each sweep

cycle of the audio frequencies (A3N emission) must be contained within ± 60 Hz of the reference carrier frequency. *See* TSO-C91a at paragraph (a)(3)(ii). Additionally, if the type of modulation is changed the carrier frequency must not shift more than ± 30 Hz from the fixed reference frequency on 121.500 MHz and not more than ± 60 Hz on 243.000 MHz. The long term stability of the carrier frequency must comply with the requirements in § 80.209(a).

* * * * *

(c) The power and modulation requirements specified in paragraphs (a)(6), (7) and (8) of this section must be met under the environmental test conditions specified in the RTCA Document DO-183 except that the air temperature limits for testing these devices must be from -20 to +55 degrees Celsius. Tests specified by RTCA with regard to altitude, decompression and overpressure are not applicable to EPIRB stations.

* * * * *

5. In § 80.1055(a) subparagraph (3) is revised to read as follows:

§ 80.1055 Special requirements for Class B EPIRB stations.

(a) * * *

* * * * *

(3) Meet the requirements in § 80.1053(a)(4) through (8), (a)(14),and (c) through (i);

* * * * *

B. Part 87 - AVIATION SERVICES

1. The authority for Part 87 continues to read as follows:

AUTHORITY: Secs. 4, 303, 48 stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. In § 87.5 the definition for "Emergency locator transmitter" is revised to read as follows:

§ 87.5 Definitions of terms.

* * * * *

Emergency locator transmitter (ELT). A transmitter of an aircraft or survival craft actuated manually or automatically that is used as an alerting and locating aid for survival purposes.

* * * * *

3. In § 87.67(b) two emission designators are added and footnote 7 is revised to read as follows:

§ 87.67 Types of emission.

* * * * *

(b) * * *

Authorized bandwidth (kilohertz)				
Class of emission	Emission designator	Below 50 MHz	Above 50 MHz	Frequency deviation
*	*	*	*	*
* A3E[12]	* 6K00A3E		* 550 *	
A3E	3K20A3E[7]		* 725 *	
*	*	*	*	*
F7D[8]	(1)		* (1) *	
NON	NON		* 7None *	

* * * * *

[7] Applicable only to Survival Craft Stations and to the emergency locator transmitters and emergency locator transmitter test stations employing modulation in accordance with that specified in § 87.73(h), (i) and (j) of the Rules. The specified bandwidth and modulation requirements shall apply to emergency locator transmitters for which type acceptance is granted after October 21, 1973.

4. In § 87.73 paragraph (h) is revised and new paragraphs (i) and (j) are added to read as follows:

§ 87.73 Modulation requirements.

* * * * *

(h) The types of emissions for ELTs must be in accordance with those specified in the Federal Aviation Administration (FAA) Technical Standard Order (TSO) Document TSO-C91a titled "Emergency Locator Transmitter (ELT) Equipment" dated April 29, 1985. TSO-C91a is incorporated by reference in accordance with 5 U.S.C. 552(a). TSO-C91a may be obtained from the Department of Transportation, Federal Aviation Administration, Office of Airworthiness, 800 Independence Avenue, S.W., Washington, D.C. 20591.

(i) Transmission of A3E or NON emission must not exceed 90 seconds and must be followed by a transmission of at least three minutes of A3N emission; each transmission of a synthesized and/or pre-recorded voice message must be preceded by the words "this is a recording."

(j) ELTs manufactured effective October 1, 1988, must have in emissions A3N, A3E and NON a clearly defined carrier frequency distinct from the modulation sidebands. On 121.500 MHz at least thirty percent of the total power emitted during each sweep cycle of the audio frequencies (A3N emission) must be contained within ± 30 Hz of the reference carrier frequency. On 243.000 MHz at least thirty percent of the total power emitted during each sweep cycle of the audio frequencies (A3N emission) must be contained within ± 60 Hz of the reference carrier frequency. *See* TSO-C91a at paragraph (a)(3)(ii). Additionally, if the type of modulation is changed the carrier frequency must not shift more than ± 30 Hz from the fixed reference frequency on 121.500 MHz and ± 60 Hz on 243.000 MHz. The long term stability of the carrier frequency must comply with the requirements in § 87.65.

5. In § 87.183 paragraphs (f) and (l) are revised to read as follows:

§ 87.183 Frequencies available.

* * * * *

(f) *121. 5 MHz* : This is a universal simplex frequency for use by aircraft in distress or emergency condition. Except for use in an ELT, the frequency 121.5 MHz will be assigned only when other frequencies are available for normal aircraft communications. The frequency is available as follows:

* * * * *

(l) *243. 0 MHz* : This is an emergency and distress frequency available for use by survival craft stations, ELTs and equipment used for survival purposes which are also equipped to transmit on the frequency 121.5 MHz.

* * * * *

FOOTNOTES

[1] Notice of Proposed Rule Making, PR Docket No. 87-133, 2 FCC Rcd 3175 (1987) (*NPRM*).

[2] *See* §§ 80.1053(a) and 87.183(l) of the Commission's Rules, 47 C.F.R. §§ 80.1053(a) and 87.183(l).

[3] A TSO is an FAA document that describes the technical standards for certain equipment installed in aircraft.

[4] RTCA is an association of U.S. aeronautical organizations whose membership consists of both industry and Government entities. Its primary objective is to find sound technical solutions to problems involving electronics and telecommunications in aeronautical operations.

[5] ARNAV has been granted a waiver of §§ 87.67(b) and 87.73(h) under delegated authority by the Chief, Private Radio Bureau, to permit type acceptance of its voice ELT. Letter from Chief, Private Radio Bureau to ARNAV (October 30, 1986). The application for type acceptance was granted November 7, 1986.

[6] DAS performed the development work for the ARNAV ELT. NASA and USCG are participants in the United States search and rescue satellite-aided tracking (SARSAT) efforts. RTCM is a non-profit organization consisting of government and non-government members concerned with maritime telecommunications practices, needs and technologies.

[7] The United States, Canada, France and the Soviet Union have launched three COSPAS and two SARSAT low polar orbiting satellites which monitor wide areas of the globe for distress signals. COSPAS is the Russian abbreviation for "Space System for Search of Vessels and Distress." SARSAT is the United States abbreviation for "Search and Rescue Satellite-Aided Tracking." Norway, the United Kingdom, Bulgaria, Finland and Denmark have joined this project as "investigators." The COSPAS satellites detect distress signals on 121.500 MHz and 406.025 MHz; the SARSAT satellites on 121.500 MHz, 243.000 MHz and 406.025 MHz. All 121.500 and 243.000 MHz detected signals are retransmitted to ground stations which in turn alert search and rescue units. The ground stations determine the vicinity of the radiobeacon emitting the distress signals by interpolating the distress signal's Doppler effect, caused by the rapid movement of the satellite through the distress area.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 86-499

In the Matter of

Revision of Section 73.3527(a)(7)
Relating to the Issues-Programs List
for Public Broadcasting Licensees

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 16, 1988; Released: March 4, 1988

By the Commission:

1. By this action, the Commission is adopting changes to Section 73.3527(a)(7) of its rules to conform the public file requirements for noncommercial licensees[1] to those of commercial licensees.[2] Such changes were first proposed by the Commission, acting on its own motion, in *Revision of Section 73. 3527 (a) (7) Relating to the Issues - Programs List for Public Broadcasting Licensees*, 2 FCC Rcd. 507 (1987) [hereinafter *Notice*]. The Commission concludes that the changes adopted herein will serve the public interest by relieving public broadcasters of unnecessary administrative burdens, while still allowing meaningful public participation in the license renewal process.

2. Currently, Section 73.3527(a)(7) requires that noncommercial licensees place in their public files a quarterly list of five to ten community issues addressed by their programming during the preceding three month period. Commercial licensees, on the other hand, are required under Section 73.3526 (a)(8)-(9) to maintain in their public files quarterly lists of programs that, in the broadcaster's good faith judgement, represent the licensee's most significant treatment of issues that the licensee believes to be of community concern. To eliminate the disparity between the public file requirements for commercial and noncommercial licensees, the *Notice* proposed conforming the rules for noncommercial licensees to the standard required for commercial licensees.

3. At one time, both commercial and noncommercial broadcasters were required by the Commission's rules to maintain comprehensive program logs for placement in their respective public files. Such logs were intended to provide the public with a basis for evaluating the degree to which a licensee's programming had been responsive to the community needs and interests. The logging requirement, however, placed an exceedingly time consuming and expensive burden on licensees, who were required to create and maintain a detailed daily record of their entire programming schedules.

4. In 1981, we issued a *Report and Order*, as part of our broad deregulation of the radio industry, which eliminated the program log requirements for commercial radio broadcasters and substituted an annual exemplary list of five to ten issues treated by the licensees's programming. [3] We based this rule change on a finding that the new requirement "assure[d] the maximum service to the public at the lowest cost and with the least amount of regulation and paperwork"[4] and on our belief that market incentives generally ensure that programming responds to community needs.[5]

5. The United Church of Christ (UCC) then appealed the *Report and Order* to the D.C. Circuit Court of Appeals, challenging, *inter alia*, that section which revised the program logging requirements. In 1984, the court affirmed most of the Commission's decision, but ruled that an "illustrative issues/programs list does not further the Commission's stated regulatory goal of relying on effective public participation in the licensee renewal process"[6] and remanded the case to the Commission for further proceedings on that issue.

6. In response to the court's remand, we issued a *Further Notice of Proposed Rule Making* [7] in the radio deregulation proceeding, which was directed to the program log question. In the *Further Notice*, we explored various options for replacing the program log system with a less burdensome, yet comparably informative, reporting requirement. Subsequently, we initiated a Rule Making proposing deregulation for commercial television[8] and therein considered some of the same alternatives to the program log requirements for commercial television that were discussed in connection with commercial radio. Based on the record developed in the radio deregulation proceedings, we issued a *Second Report and Order* [9] which revised the rule by eliminating the maximum of ten issues and making the requirement quarterly instead of yearly. Shortly thereafter, we similarly modified the reporting requirement for commercial television.[10]

7. In 1984, UCC appealed our *Second Report and Order* in radio deregulation, arguing that the illustrative issues-programs list would not provide a sufficient amount of information for the public to determine whether a licensee is meeting its public interest requirements. In 1985, the court vacated our *Second Report and Order*,[11] rejecting the Commission's contention that its relaxed public file requirements would still permit the public to effectively monitor a licensee's performance. The court reasoned that, if the public files were inadequate, the public could not make a prima facie case to challenge a licensee based on lack of responsiveness to its community. The court also found that we had not considered other regulatory options which were part of the record and suggested that we consider instituting a public file requirement reflecting a radio licensee's most significant treatment of community issues. On remand, pursuant to the court's suggestion, we amended our rules for commerical radio and television such that they currently require licensees to maintain a quarterly issues-programs list reflecting their "most significant programming treatment" of the issues as determined by the broadcaster's good faith judgment.[12]

8. The present reporting requirements for noncommercial broadcasters have a somewhat similar procedural history. Like commercial broadcasters, noncommercial broadcasters were originally required to keep comprehensive program logs. However, in 1981, shortly after we considered abolition of the program log requirements for commercial broadcasters, we initiated a separate but parallel Rule Making to consider similar action for noncommercial broadcast licensees.[13] We later issued a *Report and Order* [14] in that proceeding which relied on the reasoning in the commercial cases to adopt for noncommercial li-

censees the requirements then applicable to commercial broadcasters (*i. e.*, a quarterly five to ten issues-programs list). The *UCC III* and *UCC IV* decisions, which had prompted the adoption of a "significant treatment" list requirement for commercial broadcasters, did not address the analogous public file rules for noncommercial broadcast licensees. Consequently, public broadcasters still remain subject to the five to ten issues-programs list obligation.

9. In the *Notice* in the instant proceeding, we noted that the public file requirements for noncommercial broadcasters conflicted with the 1983 and 1985 *UCC* court decisions and were markedly different from the standard to which commercial broadcasters were subject. We, therefore, proposed that the "significant treatment" standard applicable to commercial broadcasters be applied to public broadcasters.[15] In response to the *Notice*, comments were filed by the National Association of Broadcasters (NAB). Reply comments were filed by the National Association of Public Television Stations (NAPTS). Both parties fully supported the Commission's proposal to bring the rules for noncommercial and commercial licensees into conformity. NAPTS particularly emphasized that the current rule imposes a substantial administrative burden on public broadcasters.[16] Additionally, while the commenters agreed that noncommercial broadcasters operate in a different economic environment than their commercial counterparts, NAPTS and NAB believed that this factor did not justify disparate treatment and that regulatory conformity in this area would avoid the confusion currently caused by having different rules for commercial and noncommercial licensees.[17]

10. After carefully reviewing this issue and the comments submitted in this proceeding, we conclude it would be in the public interest to require that noncommercial broadcasters maintain public file records reflecting their most significant treatment of community issues, as commercial broadcasters are now obligated to do. We reach that conclusion for several reasons. First, because the rules in effect for noncommercial licensees are identical to those that caused the court's concern in the *UCC* decisions, the former rules may be presumed to be similarly infirm. Second, we can see no valid regulatory purpose in imposing different record-keeping requirements for commercial and noncommercial broadcasters. Even though commercial and noncommercial broadcasters face somewhat different economic realities, we are convinced nonetheless that the rationale for applying the "significant treatment requirement to commercial broadcasters pertains equally to noncommercial broadcasters. As we indicated when we adopted that requirement for commercial broadcasters, "this type of record keeping requirement can give the public substantial and sufficient information about a station's issue responsive programming obligation, without, on the other hand, unduly burdening the licensee."[18] In addition, such action will promote regulatory consistency and facilitate the public's use and understanding of the public files.[19] Finally, our action here should benefit noncommercial licensees by conferring on them a greater degree of discretion in establishing a record of their past programming performance since they will no longer be constrained by the five- issue minimum and the ten-issue maximum in listing their programming in their public file.

11. For the foregoing reasons, Section 73.3527(a)(7) is hereby amended to require each noncommercial licensee to compile "a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period.

Regulatory Flexibility Final Analysis

12. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

I. ***Need and purpose of this action*** **:**

13. This action revises the current requirement that noncommercial educational broadcasters place in their public files a list of at least five to ten community issues addressed by the station's programming during the preceding three month period. Instead, licensees will be required to maintain in their public files quarterly lists of programs that, in the broadcasters' good faith judgment, represent the station's most significant treatment of issues that the licensee believes to be of community concern. Such a requirement may slightly increase the recordkeeping burden on some licensees, but is necessary in order to ensure that the requirements imposed on public licensees -- that they demonstrate that their responsiveness to the needs of their local communities -- are consistent with the Communications Act of 1934, as amended. The revision is also needed to increase licensee flexibility by encouraging licensees' discretion and to have the public file rules for noncommercial educational broadcasters correspond with the recently revised rules for commercial licensees.

II. ***Summary of issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis*** **:**

14. No issues were raised in the public comments in response to the Initial Regulatory Flexibility Analysis.

III. ***Significant alternatives considered and rejected*** **:**

15. The Commission did not consider any significant alternatives in this proceeding that were not considered during the revision of the comparable rules for commercial licensees. The unanimous support provided in the public comments indicates that we have taken the most reasonable course of action under the mandate of the Communications Act of 1934, as amended.

16. The Secretary shall send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq., (1981)).

Paperwork Reduction Act Statement

17. The action adopted herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a modified information collection and/or recordkeeping requirement on noncommercial radio and television licensees. Implementation of any modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

18. Authority for the action adopted may be found in Sections 4 and 303 of the Communications Act of 1934, as amended.

19. Accordingly, IT IS ORDERED, That the Commission's Rules ARE AMENDED, effective **April 18, 1987,** as described and set forth in the Appendix below.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

APPENDIX

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. §§ 154, 303.

2. 47 CFR 73.3527 is amended by revising paragraph (a)(7) to read as follows:

Section 73.3527 Local public inspection file of noncommercial educational stations.

(a) * * *

(7) For nonexempt noncommercial educational broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g. January 10 for the quarter October-December, April 10 for the quarter January-March, etc.) The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.

FOOTNOTES

[1] 47 C.F.R. 73.3527(a)(7) (1986).

[2] 47 C.F.R. 73.3526(a)(8)-(9) (1986).

[3] *Deregulation of Radio*, 84 FCC 2d 968, *recon. granted in part*, 87 FCC 2d 797 (1981).

[4] 84 FCC 2d at 971.

[5] *Id.* at 1014. Several public interest groups requested reconsideration of our deregulation order, arguing, *inter alia*, that the issue-programs list would leave the public with an incomplete record for determining licensees' programming responsiveness. We disagreed and denied these petitions. *Deregulation of Radio Reconsideration*, 87 FCC 2d 797 (1981).

[6] *Office of Communication of the United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983) [hereinafter *UCC III*].

[7] BC Docket No. 79-219, 48 FR 33499 (July 22, 1983) [hereinafter *Further Notice*].

[8] *Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, 94 FCC 2d 678 (1983).

[9] *Deregulation* of Radio, 96 FCC 2d 930 (1984).

[10] Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations, 98 FCC 2d 1076 (1984), recon. denied, 104 FCC 2d 357 (1986), aff'd in part and remanded sub nom. Action for Children's Television v. FCC, 821 F.2d 741 (D.C. Cir. 1987) [hereinafter Deregulation of TV.]

[11] Office of Communication of the United Church of Christ v. FCC, 779 F.2d 702 (D.C. Cir. 1985) [hereinafter UCC IV].

[12] Deregulation of Radio, 104 FCC 2d 505 (1986); Deregulation of TV, supra note 11.

[13] Revision of Programming Policies and Reporting Requirements, Related to Public Broadcasting Licensees, 46 FR 43,190 (1981) (Notice of Proposed Rulemaking).

[14] Revision of Program Policies and Reporting Requirements Related to Public Broadcasting Licensees, 98 FCC 2d 746 (1984).

[15] Notice, 2 FCC Rcd. 507.

[16] Reply Comments of the National Association of Public Television Stations at 2 (filed April 13, 1987).

[17] Id. See also Comments of the National Association of Broadcasters at 4 (filed March 25, 1987).

[18] Deregulation of Radio, 104 FCC 2d at 506-507.

[19] In its comments, NAPTS also asked whether, under our proposed rule, programming not included in the public file could be considered in evaluating a licensee's performance at renewal time. In our view, a licensee would be required to rely primarily on the programs listed in the public file, which "by the [licensee's] own admission . . . represented the most significant treatment by that broadcaster of issues that the broadcaster itself thought to be of community concern." UCC IV, supra note 12, at 713. As the court observed, "[I]f the broadcasters best programs (i.e., its listed programs) were inadequate, it is questionable whether the broadcaster's unlisted programming would pass muster." Id. Although the Commission retains substantial discretion to evaluate the probative value of unlisted programs, the court noted that, where a licensee was forced to rely on such programs, "common sense suggests that a petitioner to deny would usually come quite close to showing that such a record made renewal of a license prima facie inconsistent with the public interest." Id.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

TMC/AMERICA, INC. dba TELAMERICA — File No. I-T-C-88-011

Application for authority to operate as an international resale carrier

TOTAL TEL USA, INC. — File No. I-T-C-88-035

Application for authority to operate as an international resale carrier

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: February 25, 1988; Released: March 4, 1988

By the Acting Chief, International Facilities Division:

1. The Commission is considering two applications, filed on October 21, and November 17, 1987, respectively, by TMC/America, Inc. (TMC) and Total Tel USA, Inc. (Total Tel), respectively, requesting authority, pursuant to Section 214 of the Communications Act of 1934, as amended, to resell the switched message telephone services of existing carriers to provide international switched voice service between the U.S. and various overseas points. The applications were placed on public notice on November 4, and December 2, 1987, respectively. No comments were received.

2. Upon review of the applications, we find that the applicants have the legal, technical and financial qualifications to provide the proposed services. Both applicants are already providing domestic resale services. They now propose to resell international switched voice services in competition with other carriers already providing resale of such services. In recent authorizations of new entrants, the Commission has recognized that increased competition in international markets is beneficial.[1] We find that the market will support additional carriers and that the added competition will be in the public interest.[2]

3. For the foregoing reasons, IT IS CERTIFIED that the present and future convenience and necessity require the provision of international switched voice services to the general public by TMC and Total Tel.

4. Accordingly, IT IS ORDERED that applications File Nos. I-T-C-88-011 and I-T-C-88-035 ARE GRANTED, and:

a. TMC is authorized to provide international switched voice services by the resale of the international switched voice services set forth in AT&T's Tariffs FCC Nos. 1 and 2, MCI's Tariff FCC No. 1, US Sprint's Tariffs FCC Nos. 1 and 2 and Allnet's Tariff FCC No. 4 between the U.S., and those points listed in those tariffs; and

b. Total Tel is authorized to provide international switched voice services by the resale of the international switched voice services set forth in AT&T's FCC No. 1, MCI's Tariffs FCC Nos. 1 and 2, US Sprint's Tariffs FCC Nos. 1 and 2, and Satellite Business System's Tariff FCC No. 4 between the U.S., and those points listed in those tariffs.

5. Copies of any operating agreements entered into between TMC and Total Tel and their correspondents shall be filed with the Commission within 30 days of their execution.

6. IT IS FURTHER ORDERED that TMC and Total Tel shall file tariffs pursuant to Section 203 of the Communications Act, 47 U.S.C. Section 203 and Part 61 of the Commission's rules, 47 C.F.R. Part 61, for the services authorized in this order.

7. This order is issued under Section 0.291 of the Commission's rules and is effective upon adoption. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the rules may be filed within 30 days of public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Acting Chief, International Facilities
Division
Common Carrier Bureau

FOOTNOTES

[1] *See* the cases cited in Teltec Saving Communications Co., Mimeo No. 3548, (released April 4, 1986) at n. 2.

[2] FCC v. RCA Communications, Inc., 346 U.S. 86 (1953); Mackay Radio and Telegraph Co., 27 FCC 231 (1960).

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

US SPRINT COMMUNICATIONS COMPANY — File No. I-T-C-88-041

Application for authority to acquire and operate facilities for service to New Zealand

Application for authority to acquire and operate facilities for service to Argentina, Greece, Ireland, Israel and Switzerland — File No. I-T-C-88-042

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: February 25, 1988; Released: March 4, 1988

By the Acting Chief, International Facilities Division:

1. The captioned uncontested applications, filed on November 25, 1987 by US Sprint Communications Company (US Sprint), request authority pursuant to Section 214 of the Communications Act of 1934, as amended, to lease and operate satellite and connecting facilities for direct service to New Zealand, Argentina, Greece, Ireland, Israel and Switzerland. Upon consideration of the applications, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the provision of direct service to New Zealand, Argentina, Greece, Ireland, Israel and Switzerland by US Sprint.

2. Accordingly, IT IS ORDERED that applications File Nos. I-T-C-88-041 and I-T-C-88-042 ARE GRANTED, and US Sprint is authorized to:

a. lease from Comsat and operate 30 voice-grade satellite circuits between US Sprint's San Ramon, California earth station and an appropriate satellite over the Pacific Ocean, connecting with similar circuits between the satellite and an earth station in New Zealand, furnished by a correspondent in New Zealand;

b. lease and opeate connecting facilities between the San Ramon, California earth station and US Sprint's Sacramento, California office;

c. use the facilities in a. and b. above to provide US Sprint's regularly authorized services between the U.S. and New Zealand and beyond;

d. lease from Comsat and operate 169 voice-grade satellite circuits between US Sprint's Franklin, New Jersey earth station and an appropriate satellite over the Atlantic Ocean, connecting with similar circuits between the satellite and the following points, furnished by US Sprint's correspondents: (1) Argentina - 20 circuits; (2) Greece - 38 crcuits; (3) Ireland - 16 circuits; (4) Israel - 48 circuits; (5) Switzerland - 47 circuits;

e. lease and operate connecting facilities between the Franklin, New Jersey earth station and US Sprint's New York City technical operating center; and

f. use the facilities in d. and e. above to provide US Sprint's regularly authorized services between the U.S., on the one hand, and Argentina, Greece, Ireland, Israel and Switzerland, on the other hand, and beyond.

3. The Commission retains jurisdiction over this matter to reallocate circuits in the satellite system among the various international common carriers and other authorized users as required to insure nondiscriminatory use of, and equitable access to, the communications satellite system.

4. No material changes inconsistent with this or any other relevant Commission order shall be made before final execution of operating agreements between US Sprint and its correspondents in New Zealand, Argentina, Greece, Ireland, Israel and Switzerland, and copies of the agreements shall be filed with the Commission within 30 days of their execution.

5. This authorization is effective on its release date and shall be continued year-to-year, unless the Commission notifies the applicant to the contrary and requires a new application to be filed. If the Commission requires a new application to be filed, the authorization will continue in effect until Commission action on the application.

6. This order is issued under Section 0.291 of the Commission's rules and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the rules may be filed within 30 days of the date of public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Acting Chief, International Facilities
Division
Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

FTC COMMUNICATIONS, INC. File No. I-T-C-88-040

Application for authority to acquire and operate facilities for direct service to Malaysia

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: February 25, 1988; Released: March 4, 1988

By the Acting Chief, International Facilities Division:

1. The captioned uncontested application, filed on November 30, 1987 by FTC Communications, Inc. (FTCC), requests authority pursuant to Section 214 of the Communications Act of 1934, as amended, to lease and operate facilities for direct service to Malaysia. Upon consideration of the application, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the provision of direct service to Malaysia by FTCC.

2. Accordingly, IT IS ORDERED that application File No. I-T-C-88-040 IS GRANTED, and FTCC is authorized to:

a. lease and operate six telegraph circuits derived from another carrier's satellite and connecting facilities to Malaysia, via an appropriate west coast earth station and Pacific Ocean INTELSAT satellite;

b. lease and operate necessary domestic connecting facilities; and

c. use said facilities to provide FTCC's regularly authorized services between the U.S. and Malaysia and beyond.

3. The Commission retains jurisdiction over this matter to reallocate circuits in the satellite system among the various international common carriers and other authorized users as required to insure nondiscriminatory use of, and equitable access to, the communications satellite system.

4. No material changes inconsistent with this or any other relevant Commission order shall be made before final execution of an operating agreement between FTCC and its correspondent in Malaysia, and a copy of the agreement shall be filed with the Commission within 30 days of its execution.

5. This authorization is effective on its release date and shall be continued year-to-year, unless the Commission notifies the applicant to the contrary and requires a new application to be filed. If the Commission requires a new application to be filed, the authorization will continue in effect until Commission action on the application.

6. This order is issued under Section 0.291 of the Commission's rules and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the rules may be filed within 30 days of the date of public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Acting Chief, International Facilities Division
Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

TELAMARKETING COMMUNICATIONS OF GREATER OHIO, INC. File No. I-T-C-88-033

Application for authority to operate as an international resale carrier

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: February 25, 1988; Released: March 4, 1988

By the Acting Chief, International Facilities Division:

1. We have before us for consideration an application, filed on November 17, 1987 by Telamarketing Communications of Greater Ohio, Inc. (TCGO), requesting authority, pursuant to Section 214 of the Communications Act of 1934, as amended, to resell the switched message telephone services of existing carriers to provide international switched voice service between the U.S. and various overseas points. The application was placed on public notice on December 2, 1987. No comments were received.

2. Upon review of the application, we find that the applicant has the legal, technical and financial qualifications to provide the proposed services. TCGO is already providing domestic resale services. It now proposes to resell international switched voice services in competition with other carriers already providing resale of such service. In recent authorizations of new entrants, the Commission has recognized that increased competition in international markets is beneficial.[1] We find that the market will support additional carriers and that the added competition will be in the public interest.[2]

3. For the foregoing reasons, IT IS CERTIFIED that the present and future convenience and necessity require the provision of international switched voice services to the general public by TCGO.

4. Accordingly, IT IS ORDERED that application File No. I-T-C-88-033 IS GRANTED and TCGO is authorized to provide international switched voice services by the resale of the international switched voice services set forth in AT&T's Tariffs FCC Nos. 1 and 2, MCI Telecommunications Corp.'s Tariff FCC No. 1, US Sprint's Tariffs FCC Nos. 1 and 2, between the U.S., Hawaii, Puerto Rico and the Virgin Islands, on the one hand, and Canada and Mexico and those points listed in those tariffs on the other hand.

5. Copies of any operating agreements entered into between TCGO and its correspondents shall be filed with the Commission within 30 days of their execution.

6. IT IS FURTHER ORDERED that TCGO shall file a tariff pursuant to Section 203 of the Communications Act, 47 U.S.C. Section 203 and Part 61 of the Commission's rules, 47 C.F.R. Part 61, for the services authorized in this order.

7. This order is issued under Section 0.291 of the Commission's rules and is effective upon adoption. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the rules may be filed within 30 days of public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Acting Chief, International Facilities
Division
Common Carrier Bureau

FOOTNOTES

[1] *See* the cases cited in Teltec Saving Communications Co., Mimeo No. 3548, (released April 4, 1986) at n. 2.

[2] FCC v. RCA Communications, Inc., 346 U.S. 86 (1953); Mackay Radio and Telegraph Co., 28 FCC 231 (1960).

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

STANLEY MARSH 3, CSR-3041
TOM F. MARSH,
MICHAEL C. MARSH, AND
ESTELLE F. WATLINGTON
D/B/A MARSH MEDIA, LTD.

Amarillo, Texas TX0152

Petition for Special Relief

MEMORANDUM OPINION AND ORDER

Adopted: February 22, 1988 **Released: March 4, 1988**

By the Commission:

1. On January 9, 1987, Stanley Marsh 3, Tom F. Marsh, Michael C. Marsh, and Estelle F. Watlington, collectively d/b/a Marsh Media, Ltd. (hereinafter "Marsh") filed a petition for special relief seeking issuance of tax certificates, pursuant to §1071 of the Internal Revenue Code of 1954,[1] for their divestiture of Marsh's partnership interest in Total Television of Amarillo (hereinafter "TTA"). TTA is the operator of a cable television system serving Amarillo, Texas. Amarillo is also the city of license of Station KVII-TV (ABC, Channel 7), licensed to Marsh. The instant petition is unopposed, and was supplemented by petitioners on October 14, 1987.

2. TTA was formed as a partnership in 1968, with four equal partners, one of which was Marsh. The partnership agreement included a "right of first refusal" whereby any partner desiring to sell his or her interest would have to give the other partners an opportunity to purchase that interest. In 1970, the Commission adopted cross-ownership rules prohibiting the common ownership, operation, or control of a cable television system and television broadcast station placing a predicted Grade B service contour over the system. *Second Report and Order in Docket No. 18397*, 23 FCC 2d 816 (1970). As Marsh held its 25% interest in TTA and KVII-TV prior to adoption of the rules, this interest was "grandfathered."

3. In 1977, when two of the partners sold out, Marsh and the other remaining partner exercised their rights of first refusal, each acquiring an additional 25 percent interest in TTA. Marsh then asked the Commission for a declaratory ruling that the increase in its ownership interest did not violate the cross-ownership prohibition. The Commission denied the request, ruling that the 25 percent interest acquired by Marsh in 1977 had to be divested. *Marsh Media, Ltd.* (Amarillo, Texas), 67 FCC 2d 1516, *aff d*, 68 FCC 2d 712 (1978). On July 24, 1978, Marsh filed a petition for review of that decision in the United States Court of Appeals for the Fifth Circuit. In October 1978, the court granted a Commission motion to hold this case in abeyance pending a reconsideration of the cable/broadcast cross-ownership rules that underlay the decision challenged by Marsh.[2] The Commission and Marsh subsequently joined in a motion for voluntary remand of Marsh's petition for review by the Fifth Circuit with the understanding that, if Marsh were aggrieved by the outcome of the Rule Making at the Commission, it would return to court.

4. On March 29, 1984, the Commission adopted the *Third Report and Order in Docket No. 20423*, 97 FCC 2d 65 (1984), "grandfathering" all nonegregious cable/local broadcast station cross-ownership situations (*i. e.*, situations in which the broadcast station is not the only commercial broadcast station providing principal community service to the cable community) that were in existence on or before July 1, 1970. While this included Marsh's initial 25 percent interest in TTA, the permissible "grandfathered" interest did not include Marsh's post-1970 increase in its ownership interest in the system. Marsh sought reconsideration of this decision, which was denied. *Memorandum Opinion and Order in Docket No. 20423*, FCC 85-232 (released May 3, 1985). Marsh was ordered to divest its interest acquired in violation of the Commission's Rules within 180 days.[3] Marsh renewed its appeal to the United States Court of Appeals for the Fifth Circuit, which upheld the Commission's decision. *Marsh Media, Ltd. v. FCC*, 798 F. 2d 772, *reh' g denied*, 802 F. 2d 455 (5th Cir. 1986), *cert. denied*, 107 S. Ct. 1287 (1987). Marsh divested its entire interest in TTA on December 1, 1986, and petitioners now seek tax certificates for this divestiture.

5. In support of their request for tax certificates, petitioners state that, in eliminating a "grandfathered" interest, Marsh has furthered the Commission policy adopted in 1970, and that issuance of tax certificates is therefore appropriate, citing *Issuance of Tax Certificates*, 59 FCC 2d 91 (1976). Moreover, petitioners assert that they are entitled to tax certificates for the entirety of Marsh's divested 50 percent interest in TTA, and not merely for the pre-1970 25 percent interest. Petitioners claim that the existence of Marsh's right of first refusal predated *The Standard Corporation and Communications Investment Corporation*, 87 FCC 2d 604 (1981), and that therefore the Commission's denial of "grandfathered" status to the stock acquired in 1977 pursuant to the exercise of that right has no bearing on the question of whether issuance of the requested certificates is appropriate.[4]

6. Petitioners are correct in their assertion that issuance of a tax certificate is warranted for the divestiture of Marsh's pre-1970 25 percent interest in TTA. Such divestiture has eliminated a legitimately "grandfathered" common ownership situation, and therefore furthers our consistent and long-standing policy and the statutory provision against cross-ownership between cable systems and local television broadcast stations. *See, e.g., Southern Oregon Broadcasting Company d/b/a Southern Oregon Cable TV*, 91 FCC 2d 1258 (1982). However, insofar as petitioners seek issuance of a tax certificate for the remainder of Marsh's holdings, their request must be denied. As the appellate court noted, it is settled conclusively, and petitioners acknowledge, that Marsh's 1977-acquired stock interest in TTA is not "grandfathered." *Marsh Media, Ltd. v. FCC*, 798 F. 2d at 776 n. 6. Contrary to petitioners' assertions, this is particularly germane to a decision in the instant case. It has been our consistent policy not to issue tax certificates for the divestiture of properties acquired in violation of our rules. *E. g., Issuance of Tax Certificates,*

92 FCC 2d 170 (1982); *Kansas State Network, Inc.*, 89 FCC 2d 392 (1982), *aff'd*, 720 F. 2d 185 (D.C. Cir. 1983); *Rust Craft Broadcasting Company*, 48 RR 2d 743 (1980), *recon. denied*, 85 FCC 2d 613 (1981); *Issuance of Tax Certificates*, 59 FCC 2d 91 (1976). As the United States Court of Appeals for the District of Columbia Circuit has stated, "We agree with the Commission that it would be unreasonable to read section 1071 as applying to property acquired in violation of Commission policies." *Kansas State Network, Inc. v. FCC*, 720 F. 2d at 188. In addition, Congress has disavowed any intent to authorize the issuance of tax certificates for divestitures necessitated by voluntary acquisition of properties in violation of the Commission's Rules. Congress agreed with the Commission's policy limiting issuance of tax certificates to situations involving "grandfathered" or involuntary acquisitions. S. Rep. No. 1983, 85th Cong., 2d Sess., reprinted in [1958] U.S. Code Cong. & Ad. News 4791, 4863. This has been our consistent interpretation and application of our rules.

7. Petitioners' reliance on The Standard Corporation and Communications Investment Corporation, supra, is misplaced. In approving the issuance of tax certificates therein, we recognized that the petitioning parties may have acted in good faith in reliance upon our decision in Plains Television Corp. (Springfield, Illinois), 36 FCC 2d 614 (1972). Therein we ruled that an inchoate but eventually convertible and realizible interest could be considered a "grandfathered" interest for purposes of issuance of a tax certificate. In the instant case, however, petitioners have been clearly on notice since Stauffer Publications, Inc. (Amarillo, Texas), 25 RR 2d 111 (1972), a decision issued subsequent to Plains Television Corp., supra, and addressing the very TTA properties at issue herein, that the acquisition of additional interests in TTA pursuant to a right of first refusal would not be treated as the acquisition of additional "grandfathered" interests. In that case, it was specifically held that the exercise by a TTA partner of a right of first refusal to increase holdings in TTA would be in violation of §76.501 of the Rules. The Commission did, however, grant the petitioner in that case a one-year waiver of the rule to allow an orderly, one-year divestiture period. Id. See also Marsh Media, Ltd. v. FCC, 798 F. 2d at 776 n. 5. Petitioners simply cannot rely upon The Standard Corporation and Communications Investment Corporation, supra, in the face of our previous clear findings respecting petitioners' interests in TTA, prior to the 1977 acquisitions. Therefore, we shall issue a single tax certificate to Marsh, noting the appropriate interests of the parties, solely for Marsh's divestiture of its initial, pre-1970 25 percent interest in TTA.

8. In view of the foregoing, grant of petitioners' request is in the public interest only to the extent indicated above.

9. Accordingly, IT IS ORDERED, That the petition for special relief (CSR-3041), filed January 9, 1987, by Stanley Marsh 3, Tom F. Marsh, Michael C. Marsh, and Estelle F. Watlington d/b/a Marsh Media, Ltd. IS GRANTED to the extent indicated above, and in all other respects IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

CERTIFICATE ISSUED BY THE FEDERAL COMMUNICATIONS COMMISSION PURSUANT TO §1071 OF THE INTERNAL REVENUE CODE (26 U.S.C. §1071)

It is hereby certified that the sale on December 1, 1976, of that certain 25 percent partnership interest in Total Television of Amarillo acquired by Marsh Media, Ltd. in 1968, was necessary or appropriate to effectuate the Commission's Rules and policies prohibiting the cross-ownership, operation, control, or interest of a cable television system with a television broadcast station whose predicted Grade B contour overlaps in whole or in part the service area of such system. §76.501 of the Commission's Rules, adopted June 24, 1970, Second Report and Order in Docket No. 18397, 23 FCC 2d 816 (1970). This 25 percent partnership interest was held proportionately as follows: Stanley Marsh 3 (37.5%), Tom F. Marsh (12.5%), Michael C. Marsh (25%), and Estelle F. Waltington (25%).

This certificate is issued pursuant to the provisions of §1071 of the 1954 Internal Revenue Code.

In witness whereof, I have hereunto set my hand and seal this 25th day of February 1988.

H. Walker Feaster III
Acting Secretary

FOOTNOTES

[1] §1071 of the 1954 Internal Revenue Code provides:

> If the sale or exchange of property (including stock in corporation) is certified by the Federal Communications Commission to be necessary or appropriate to effectuate a change in policy of, or the adoption of a new policy by, the Commission with respect to the ownership or control of radio broadcast stations, such sale or exchange shall, if the taxpayer so elects, be treated as an involuntary conversion of such property within the meaning of Section 1033. . . .

[2] At the time, the Commission's *Second Report and Order in Docket No. 18110*, 50 FCC 2d 1046 (1975), was under review by the District of Columbia Circuit. At the Commission's request, that proceeding was remanded by the court.

[3] Marsh also filed a petition for rule making (RM-3810) seeking repeal of the rule that restricts the common ownership of cable systems and colocated television stations. By *Memorandum Opinion* and Ord er, 49 FR 48313 (December 12, 1984), we denied this petition because our cross-ownership prohibition was codified by §613 of the Cable Communications Policy Act of 1984, 47 U.S.C. §533.

[4] In their supplemental pleading, petitioners note that their initial 25% interest in TTA is held as follows: Stanley Marsh 3 (37.5%), Tom F. Marsh (12.5%), Michael C. Marsh (25%), and

Estelle F. Watlington (25%). The additional 25% interest acquired in 1977 is held by Stanley Marsh 3 (50%), Tom F. Marsh (30%), and Michael C. Marsh (20%).

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 78-97

In the Matters of

THE WESTERN UNION TELEGRAPH COMPANY — Phases I and II

Revisions to Tariffs F.C.C. Nos. 240 and 258 filed with Transmittal No. 7346; Revisions to Tariffs F.C.C. Nos. 268 and 269 filed with Transmittal Nos. 7347 and 7348; Revisions to Tariffs F.C.C. Nos. 229, 240, 254, 258, 260, 263 and 268 filed with Transmittal No. 7417

CC Docket No. 82-122

Interconnection Arrangements Between and Among the Domestic and International Record Carriers

THE WESTERN UNION TELEGRAPH COMPANY, Complainant,

v. — File No. E-87-139

RCA GLOBAL COMMUNICATIONS, INC., Defendant.

ORDER

Adopted: January 23, 1988 ; Released March 4, 1988

By the Chief, Common Carrier Bureau:

1. RCA Global Communications, Inc. (RCA Globcom) and The Western Union Telegraph Company (Western Union) have filed a "Joint Motion for Order Terminating Proceedings" in the above-captioned matters. The two docketed proceedings concern Western Union's rates and rate structure for telex and TWX service to both the public and other interconnected carriers. As a result of these proceedings the interconnected carriers are required to reimburse Western Union for prior discounts which this Commission has found to be unwarranted.[1] The specific amount of the reimbursement currently is in dispute. Therefore, in its *Reconsideration Order* the Commission directed Western Union to file a formal complaint seeking payment of the amounts it claims are due and owing. The proceeding in FCC File No. E-87-139 is a complaint filed by Western Union pursuant to that order.

2. As part of their motion, the parties filed a settlement agreement in which each party agrees to settle all claims against each other arising from the above-captioned proceedings. The motion requests that the Commission terminate those proceedings insofar as they involve claims between RCA Globcom and Western Union and declare that neither party will have any obligation to the other party under any of the orders that the Commission has issued or may issue in those proceedings. On January 12, 1988, we released a Public Notice inviting comments on the motion. DA No. 88-10. No comments were received.

3. We have reviewed the motion and the attachments. We find that the settlement agreement does not violate the Communications Act of 1934 and is in the public interest.[2] This finding is premised, *inter alia*, on the fact that this agreement will not in any way affect either Western Union's or RCA Globcom's relationship with or claims against any other party in the above-captioned proceedings.

4. Therefore, IT IS ORDERED that the Joint Motion for Order Terminating Proceedings filed by The Western Union Telegraph Company and RCA Global Communications, Inc. IS GRANTED.

5. IT IS FURTHER ORDERED that all claims between The Western Union Telegraph Company and RCA Global Communications, Inc. in CC Docket Nos. 78-97, Phase I, 78-97, Phase II, and 82-122 ARE DISMISSED.

6. IT IS FURTHER ORDERED that the complaint of The Western Union Telegraph Company against RCA Global Communications, Inc., File No. E-87-139, IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

FOOTNOTES

[1] *See* Western Union Telegraph Co., CC Docket No. 78-97, Phase I, 102 FCC 2d 485 (1985), *recon. denied*, 1 FCC Rcd 829 (1986); Interconnection Arrangements Between and Among the Domestic and International Record Carriers, CC Docket No. 82-122, Western Union Telegraph Co., CC Docket No. 78-97, Phase II, Memorandum Opinion and Order, FCC 86-190 (released May 2, 1986) (*Reimbursement Order*), *recon.*, 2 FCC Rcd 2999 (released May 21, 1987) (*Reconsideration* Order).

[2] The Commission has already permitted a settlement in these proceedings between Western Union and ITT World Communications Inc. Western Union Telegraph Co., 2 FCC Rcd 2548 (1987).

Before the
Federal Communications Commission

Washington, D.C. 20554

PUBLIC NOTICE

Released: March 4, 1988

GTE SOUTHWEST SEEKS PERMISSION TO ALLOW AMORTIZATION OF DEBT REFINANCING EXPENSES AND UNAMORTIZED DISCOUNTS AND PREMIUMS ASSOCIATED WITH REACQUIRED DEBT.
Pleading Cycle Established

On January 29, 1988, GTE Southwest Incorporated (GTE), requested permission to amortize debt refinancing expenses and the unamortized discounts and premiums associated with reacquired debt and a preferred stock issue over the life of the new debt. GTE states that it sold, on November 12, 1987, long-term debt at an interest rate of 10-3/8% which was used to fund the call of a debenture bearing an interest rate of 12-7/8% and preferred stock. Section 32.4240 of the Commission's Rules requires carriers to recognize the gain or loss on the reacquired debt at the time of reacquisition. GTE states that it should be allowed to amortize the costs, rather than comply with Section 32.4240 because the cost of long-term debt and capital would be reduced.

Parties wishing to comment on GTE's request should do so no later than **March 21, 1988.** Reply comments should be filed no later than **March 31, 1988.**

Parties are requested to serve copies of the comments upon International Transcription Services, Inc. at their offices in Room 246, 1919 M Street, N.W., Washington, D.C. 20554, and upon Kenneth P. Moran, Chief, Accounting and Audits Division, Room 812, 2000 L Street, N.W., Washington, D.C. 20554. Parties should refer to File No. AAD 8-1902.

Copies of the petition and related documents may be obtained from International Transcription Service, Inc., 2100 M Street, N.W., Washington, D.C. 20036, (202) 857-3800. The documents are also available for public inspection and copying in Room 812, 2000 L Street, N.W., Washington, D.C. 20554.

For further information contact Debra A. Weber at (202) 634-1861.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of

SOUTH CENTRAL BELL	File Nos. 21181-CD-1-83 26390-CD-P-2-83 26283-CD-P-1-83

Licenses for paging stations at various locations in Louisiana

MEMORANDUM OPINION AND ORDER

Adopted: February 18, 1988 ; Released: March 4, 1988

By the Chief, Mobile Services Division:

1. The Louisiana Association of Radio Common Carriers (LARCC) has filed an informal opposition to the captioned authorizations stating it "feels compelled to apprise the Commission of certain facts, inconsistencies and irregularities concerning the above-referenced authorizations." South Central Bell (SCB) has responded.

2. LARCC argues that SCB has misrepresented facts concerning the status of its captioned authorizations, because SCB was not able to commence service to the public at the time it filed its Forms 489. Moreover, LARCC argues that because service was not begun at the time the applications for covering licenses were filed, SCB's authorizations have expired and should be returned to the Commission for cancellation. On April 21, 1986, SCB submitted its Forms 489 to cover the captioned permits. However, LARCC argues that SCB knew it was unable to provide service to the public on that date. The Louisiana Public Service Commission (LPSC) had notified SCB on April 4, 1986, that SCB's tariff had been suspended pending review of an agency agreement pertaining to the captioned paging authorizations. Under Louisiana law, SCB cannot provide service to the public without a tariff. Accordingly, LARCC argues, SCB was in violation of Sections 22.13(f) and 22.43 of the Commission's Rules.[1]

3. In response to this argument, SCB states that it was in compliance with the Commission's rules regarding construction, and that the state certification provision does not apply to its situation. SCB indicates that it had fully constructed its station by the date its Form 489 was filed. SCB further points out that under Louisiana state law, wireline telephone companies are authorized to provide paging service within their authorized (certificated) service areas without the need to be separately certified. Moreover, SCB argues, the Commission's rules do not require that the tariff be accepted prior to the end of the 12-month construction period. To the contrary, SCB says the *Report and Order* in the *Preemption of State Entry Regulation in the Public Land Mobile Service*, CC Docket 85-89, released March 31, 1986, draws a distinction between state entry regulation (for which SCB reads state certification) and post-entry tariff regulation.[2]

4. SCB also argues that even if the state certification requirement includes securing tariff authorization, it has been diligent in seeking tariff approval and deserves to be accorded an extension of time to commence service. SCB attaches amended Forms 489, dated June 29, 1987, notifying the Commission that construction is complete and requesting an extension of time until December 19, 1987, to commence service to the public due to delay in tariff approval. On December 8, 1987, SCB amended its Forms 489 to indicate that the LPSC accepted its tariffs subject to any action the LPSC may take as a result of hearings to be held on LARCC's complaints. Accordingly, SCB commenced service to the public at that time. SCB requests that should the Commission determine that if the provisions of Sections 22.13 and 22.43 apply to its case, that these rules be waived.

5. SCB also argues that it has not misrepresented the status of its authorizations, as alleged by LARCC. LARCC's argument is that filing a Form 489 amounts to a representation that service to the public is imminent. SCB argues that Section 22.9 of the Rules requires that a Form 489 be filed *no later than* the date on which the licensee commences service to the public. SCB indicates that it was unable to specify a date for the commencement of service to the public due to uncertainty as to when its tariff would be accepted by the LPSC. [3]

6. In addition to the charges of misrepresentation and that the SCB permits have expired, LARCC argues that SCB has illegally transferred control of its paging facilities to A+ Beepers (Beepers). SCB and Beepers entered into an agreement whereby Beepers would manage SCB's paging facilities and act as its agent. It is this agency agreement which delayed SCB's tariff approval at the LPSC.

7. SCB has made two amendments to the agency agreement in order to clarify the relationship between itself and Beepers. As amended, the agreement provides that Beepers will market, promote, advertise, sell, bill and collect for paging service provided by SCB. Beepers will provide pagers and it will market and promote SCB's paging service. SCB has the exclusive right to determine what type of transmission facilities will be provided, and when and how the system will be upgraded for new technology. In addition, SCB has exclusive right to determine which markets to enter. SCB retains right of approval over the pagers to assure technical compatibility. Beepers agrees to abide by SCB's tariff requirements, and SCB has the exclusive right to determine the tariff rates to be submitted to regulatory agencies for approval. Beepers is paid a commission based on its sales; it remits to SCB all revenue from paging services, less its commission. The entire amount of tariffed charges collected by Beepers is considered as revenue to SCB, and the agent's commission is an expense to SCB. Control of service standards and responsibility for service quality is SCB's. Beepers does not have access to SCB's paging transmission facilities. The agreement specifically provides that no control of SCB's radio communications facilities and operations vests in Beepers. SCB may terminate the agreement with Beepers should Beepers fail to meet its sales objectives or breach any provision of the agency agreement.

DISCUSSION

8. SCB's facilities were constructed in a timely manner and LARCC does not argue otherwise. The requirements of Sections 22.13(f) and 22.43(a) are, however, intended to pertain to all required state authority and SCB should have asked for an extension of time to commence service to the public at the time it filed its first Forms 489. With regard to SCB's June request for an extension of time and for waiver of Sections 22.13(f) and 22.43(a), we find that the delay in implementation of service to the public was due to matters outside SCB's control, and accordingly, we hereby grant SCB a waiver of these rules and we decline to find that its construction permits have expired. Moreover, SCB was and is diligently prosecuting its tariff approval before the LPSC. Accordingly, an extension of time in which to commence service is justified and is hereby granted.

9. No unauthorized transfer of control has taken place between SCB and Beepers. The guidelines set out in *Intermountain Microwave*, 24 Rad. Reg. (P&F) 983 (1963) can be used to determine who has control of a facility:

> 1. Does the licensee have unfettered use of the facilities and equipment?
>
> 2. Who controls daily operations?
>
> 3. Who determines and carries out the policy decisions, including preparing and filing applications with the Commission?
>
> 4. Who is in charge of employment, supervision and dismissal of personnel?
>
> 5. Who is in charge of the payment of financing obligations, including expenses arising out of operating?
>
> 6. Who receives monies and profits derived from the operation of the facilities?

10. Applying the guidelines to the instant situation, we see that the licensee, SCB, has sole access to the paging transmission facilities. Daily operations are handled by Beepers pursuant to an agency agreement, but SCB has right of approval over the pagers sold by Beepers, and Beepers must abide by SCB's tariff requirements. Day-to-day decisions pertaining to marketing, promoting, advertising, selling, billing and collecting will be made by Beepers within the parameters of SCB's tariff and market area decisions. The station facilities are under the sole control of SCB. Control over personnel matters is divided along similar lines. SCB alone has the right to finance, improve and construct the facilities. Beepers collects paging revenues but does not have a right to exercise control over the revenues. Beepers does not pay SCB directly for airtime used by paging subscribers, but instead receives a commission for subscribers' use of SCB's paging facilities. SCB claims all paging revenues as income to itself and counts Beepers' commission as an expense. Finally, SCB has control over Beepers' activities, in that should Beepers violate any provisions of the agreement, or fail to meet sales quotas, SCB may terminate the agreement.

11. SCB retains control of its paging facilities within the requirements of the Commission's rules. An agency agreement to manage communications facilities is not uncommon and presents no barrier to legal operation of those facilities. The agency agreement between SCB and Beepers leaves full control of paging facilities with SCB. It leaves control over disposition of revenue with SCB. Finally, SCB's tariff requirements govern the agency duties of Beepers. Under these circumstances, no question could legitimately be raised regarding the existence of unauthorized transfer of control.

12. For the foregoing reasons, the request to institute an investigation made by the Louisiana Association of Radio Common Carriers IS HEREBY DENIED.

13. IT IS HEREBY ORDERED that the request for extension of time to commence service to the public, filed by South Central Bell, IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Kevin J. Kelley
Chief, Mobile Services Division
Common Carrier Bureau

FOOTNOTES

[1] Section 22.13(f) requires licensees to comply with all applicable state certification requirements. It states in pertinent part that "[t]he licensee under this part must complete construction in accordance with Section 22.43 of the rules. A licensee must have all requisite state authority and be in operation within a year of the license grant or the license will automatically expire and must be submitted for cancellation." Section 22.43(a)(2) of the Commission's Rules states that "[t]he station must be completed and ready for operation, as shown by the commencement of service, within 12 months of the grant of a radio station authorization." Section 22.43(b)(2) states that under specified circumstances a permittee may apply for an extension of time if state certification has not yet been received.

[2] SCB's reliance on this *Report and Order* is misplaced. In that order, we specifically identified *any* state regulatory practice which delayed or impeded entry, including "the use of regulatory processes by existing carriers to forstall competitive entry." (*Report and Order*, paragraph 28.) To the extent that a competitor can block service to the public by challenging its competitor's tariff acceptance by the LPSC, LARCC's tactics herein are precisely the type of competitive action which our *Report and Order* was designed to stop. However, the United States Court of Appeals for the District of Columbia Circuit vacated the Commission's *Report and Order*. Docket No. 86-1205, *National Association of* Regulatory Commissioners v. FCC, March 30, 1987.

[3] As to the argument that it knew on April 4, 1986 that it could not provide service, SCB argues that the letter in question stated that SCB's tariff revision would "be held as a pending matter" not that the tariffs had been suspended. SCB argues that it reasonably believed the LPSC would accept its tariff revisions without substantial delay, because its tariffs have never been challenged. Under Louisiana law, SCB's tariffs can become effective if the LPSC simply accepts them for filing.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-269

In re Applications of

ST. CROIX WIRELESS CO., A LIMITED PARTNERSHIP	File No. BPH-850711QD
SUGARBIRD COMMUNICATIONS	File No. BPH-850712DD
SUNSHINE-EAGLE BROADCASTING CO.	File No. BPH-850712W4
KAREEM ABDULGHANI	File No. BPH-850712W6

For Construction Permit
for a New FM Station
Christiansted, Virgin Islands

MEMORANDUM OPINION AND ORDER

Adopted: February 24, 1988; Released: March 2, 1988

By the Review Board:

1. On January 26, 1988, Sugarbird Communications filed with us a "Motion for Leave to File Untimely Application for Review" and an accompanying "Application for Review." St. Croix Wireless Company opposed the motion in its "Comments Regarding Application for Review." Of course, the Board has no jurisdiction over applications for review, which pursuant to Section 1.115 of the Commission's Rules, 47 CFR 1.115, must be filed with the Commission. However, Sugarbird's pleadings, in essence, constitute a very belated appeal of an earlier ruling dismissing its application for failure to prosecute. *See* 47 CFR 1.301(a)(1). For the reasons set out below, we will deny Sugarbird's motion.

2. *Background* : By *Hearing Designation Order,* 2 FCC Rcd 4447 (1987), this proceeding was set for a comparative hearing and all applicants were ordered to file a written notice of appearance by August 19, 1987. On that date, all of the applicants filed a joint settlement request with presiding Administrative Law Judge Miller, but only Sugarbird failed to file a notice of appearance as required by the hearing designation order. During the week of August 31, 1987, the ALJ contacted counsel for Sugarbird and suggested that counsel file a request for acceptance of a late-filed notice of appearance. When Sugarbird still had not filed a notice of appearance by September 4, 1987, the ALJ dismissed Sugarbird's application for failure to prosecute, pursuant to 47 CFR 1.221(c), *Memorandum Opinion and Order,* FCC 87M-2123, released September 8, 1987. By separate action on the same date the ALJ granted the joint settlement request so far as it pertained to the other applicants, granted the St. Croix application, and terminated the proceeding. *Memorandum Opinion and Order,* FCC 87M-2124, released September 8, 1987.

3. At that point, Sugarbird would have been allowed five days to file an appeal with the Board seeking review of the ALJ's dismissal order. *See* 47 CFR 1.301(a)(1), (c)(2). Even if, for the sake of argument, we viewed the ALJ's contemporaneous dismissal order and ruling terminating the proceeding as effectively constituting one final order appealable within 30 days, Sugarbird would still have been required to preserve its right to appeal by filing a notice of appeal within 10 days. *See* 47 CFR 1.302(a), (b). Sugarbird did not file such notice, nor did it appeal directly under Section 1.301(a)(1). Instead, Sugarbird chose another course, one that is expressly prohibited by the Commission's Rules. On September 14, 1987, it filed with the ALJ a "Petition for Reconsideration of Dismissal and Approval of Joint Settlement, and Request for a Stay." This pleading was promptly dismissed by the ALJ because petitions for reconsideration of interlocutory actions other than hearing designation orders "will *not* be entertained," 47 CFR 1.106(a) (emphasis added), and the ALJ had previously terminated the proceeding and was therefore without authority to act. *Memorandum Opinion and Order,* FCC 87M-2237, released September 17, 1987; *see* 47 CFR 0.341 (authority of ALJ ends with issuance of Initial Decision [or other final order]).

4. On January 26, 1988, nearly five months after the dismissal of its application, Sugarbird moved to appeal all three of the ALJ's orders, FCC 87M-2123, 2124, and 2237, *supra,* arguing that it did not receive personal notice of the dismissal of its petition for reconsideration until January 6, 1988, when counsel picked up a copy of the order from the ALJ's office, because Sugarbird had been removed from the Commission's mailing list as a result of the ALJ's prior dismissal of its application.

5. *Discussion* : We deny Sugarbird's motion for leave to file its untimely appeal. Responsibility for Sugarbird's tardiness lies squarely on Sugarbird and its counsel. Unlike the petitioner in *Gardner v. FCC,* 530 F.2d 1086 (D.C. Cir. 1976), on which case it heavily relies, Sugarbird timely received notice of the ALJ's orders dismissing its application and granting the joint settlement request, and was *personally advised beforehand* by the ALJ that it must promptly file a late notice of appearance. Having ignored Commission rules and procedures for some five months, Sugarbird now attributes its tardiness to its alleged lack of personal notice of a much later order simply dismissing its unauthorized petition for reconsideration. *Gardner* required that the Commission consider a late-filed petition for reconsideration where personal notice of the denial was *not* received because of a Commission procedural mistake. Here, in contrast, Sugarbird *had* received timely, personal notice of the dismissal of his application, and its failure to receive personal notice of its petition for reconsideration was due solely to its choice of a procedural course of action patently prohibited by Commission rules. Moreover, the court has construed *Gardner* to apply narrowly "to the highly unusual circumstances presented there of the affected party's being situated in Alabama, unrepresented by counsel...." *Reuters Ltd. v. FCC,* 781 F.2d 946, 952 (D.C. Cir. 1986). Here, Sugarbird was at all times represented by counsel, whose law offices are only a stone's throw from the Commission.

6. In sum, Sugarbird (1) failed to file a notice of appearance, despite the notice provided by the hearing designation order, the ALJ, and rule Section 1.221; (2) has properly filed with the ALJ a petition for reconsideration expressly unauthorized by rule Section 1.106; (3) has failed to exercise its right to appeal within five days, as set forth in rule Section 1.301; and (4) has now requested leave to file a mis-styled "Application for Review" with the Board, which is essentially a very belated appeal. With no discernible equities running in Sugarbird's favor, we must adhere to the Commission's clear and concise rules and regulations and deny the Sugarbird motion for leave to file a belated appeal. *Cf. Reuters, supra.*

7. ACCORDINGLY, IT IS ORDERED, That the "Motion for Leave to File Untimely Application for Review" filed on January 26, 1988 by Sugarbird Communications IS DENIED, and the accompanying "Application for Review" IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Joseph A. Marino
Chairman, Review Board

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Monetary
Forfeiture Against

RUSS IZOR 3153602-87006
Paleface Corporation
813 W. Gardena Boulevard
Gardena, California 90247

Owner of the Vessel
FIRST STRING
(Ship Radio Station WSV 9547)

ORDER

Adopted: February 16, 1988; Released: March 2, 1988

By the Commission:

1. The Commission has before it an application for review filed June 18, 1987, by Russ Izor, president of Paleface, Inc. He has applied for review of the imposition of a monetary forfeiture of $250, issued for failure to maintain a "listening watch" as required by Section 83.202(c) of the Commission's Rules and Regulations (Rules), 47 C.F.R. ' 83.202(c).[1]

2. There has been a lengthy exchange of correspondence between Mr. Izor and the Commission concerning this forfeiture, and we have carefully reviewed all the material in the record. There is nothing in Mr. Izor's application for review or elsewhere in the record that warrants cancellation of the forfeiture. This case is on all points similar to *Harry Dale Parsons*, 103 FCC 2d 650 (1985), *recon. denied*, 102 FCC 2d 1454 (1986), which controls the outcome here.

3. Therefore, IT IS ORDERED that the application for review IS DENIED. IT IS FURTHER ORDERED that the monetary forfeiture of $250 be paid within 30 days from the release of this *Order*. Payment should be made by check or money order payable to the Federal Communications Commission and sent to Fiscal Acccounting Section, Room 452, Federal Communications Commission, Washington, D.C. 20554. The number 3153602-87006 should be placed on the remittance.

4. IT IS FURTHER ORDERED that a copy of this *Order* be mailed to Russ Izor, President of Paleface, Inc., at the address shown in the caption.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

FOOTNOTE

[1] Effective October 2, 1986, Section 83.202(c) was renumbered and is now Section 80.305(c). At that time, minor editorial revisions that did not affect meaning were also made.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 86-284

In the Matter of

Amendment of Section 73.202(b), RM-2573
Table of Allotments,
FM Broadcast Stations.
(Vero Beach, Florida)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 11, 1988; Released: March 7, 1988

By the Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 51 FR 24873, July 9, 1986, proposing to substitute Channel 279C2 for Channel 288A at Vero Beach, Florida, and to modify the Class A license for Station WAVW(FM) to specify the Class C2 channel, at the request of the licensee, Treasure Coast Radio, Inc. (petitioner). In response to the *Notice* comments were filed by: (1) WGYL Radio Corporation (WGYL(FM), Vero Beach)[1], (2) Treasure Coast Media, Inc. (WCXL(FM), Vero Beach), (3) Treasure Coast Broadcasting, Inc. (WTTB(AM), Vero Beach), (4) Dennis A. Stage, (5) Palm Coast Communications, Inc. (Palm Coast), (6) Satellite Systems Engineering (SSE), and (7) Radio Cape Coral Inc. (WRCC(FM), Cape Coral, Florida), each stating their intentions to apply for use of Channel 279C2 at Vero Beach, if the channel is allotted. The petitioner submitted reply comments.[2]

2. Radio Cape Coral states that it does not object to the proposed allotment. Its comments are directed to the potential impact that a Channel 279C2 allotment at Vero Beach may have on its pending proposal to upgrade on Channel 279C2 (Docket 86-507). The communities are said to be 190.2 kilometers apart, whereas 190 kilometers are required. It suggests that the Commission either determine that a site restriction should be imposed on Channel 279C2 at Vero Beach or Cape Coral, or consider the Cape Coral petition as a counterproposal in this proceeding. However, we have determined that Channel 279C2 can be allotted to both Cape Coral, and Vero Beach, Florida, in compliance with the spacing requirements.

3. Both Treasure Coast (WGYL) Channel 228A, and Treasure Coast Media (WCXL) Channel 269A, have requested that their Class A licenses be modified to specify Channel 279C2, if the channel is allocated to Vero Beach. WCXL argues that its request for modification should be given the same consideration as that of the petitioner for WAVW. On the other hand, if two Class C2 channels are allotted to Vero Beach, Channel 279C2 should be reserved for the expressed use of Station WGYL or WCXL and the modification of license to be determined by a hearing should both licensees apply for use of Channel 279C2, thus allowing other interested parties an opportunity to apply for use of the second channel.

4. In reply comments, petitioner requested that the Commission delay the proceeding until after March 2, 1987, so that an additional channel can be made available to other interested parties. At the time of the *Notice*, Channel 259C2 could not be allotted to Vero Beach due to spacing constraints. However, as indicated in the petitioner's May 1, 1987 pleading, and confirmed by our engineering staff, the allotment can now be made in compliance with the spacing requirements of Section 73.207. In an effort to satisfy the desires of interested parties for additional Class C2 channels at Vero Beach, we conducted a channel search and found that only two channels (259C2 and 279C2) can be allotted to Vero Beach.

5. As for the suggestion that WCXL and WGYL be given the same consideration for modification to Channel 279C2 as the original petitioner, WAVW, the Commission's action in MM Docket 83-1148, 98 FCC 2d 916, (1984), provides for modification of an existing station's license in a rule making if the Commission can allot an additional channel of equal class to satisfy the stated interest of other parties. In each case the Commission stated that it would attempt to allot as many higher class channels as there are parties requesting them. However, where there are insufficient channels for each interested party, the proposed modification can take place as long as at least one additional equivalent channel is available. Therefore, in light of the continuing interest of five other parties for use of a Class C2 channel, we are herein allotting Channel 259C2 to Vero Beach. Additionally, we shall modify the license for Station WAVW to specify operation on Channel 279C2. This will enable Vero Beach to receive a first and second wide coverage area FM station. Channel 259C2 will require a site restriction 22.5 kilometers (14 miles) north of the city in order to avoid short spacing to Station WQCS(FM), Fort Pierce, Florida, (Channel 205C1), a pending proposal to allot Channel 258A to Jupiter, Florida (Docket 87-233), and an application for Channel 260C at Boca Raton, Florida (BPH 850730IH). A site restriction 1.9 kilometers (1.2 miles) north, must be imposed on Channel 279C2 to meet the spacing requirements to Station WSHE(FM) Channel 278C, Fort Lauderdale, Florida. [3]

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 21, 1988,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, to read as follows:

City	Channel No.
Vero Beach, Florida	228A, 259C2, 269A, 279C2

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Treasure Coast Radio, Inc., Station WAVW(FM), Vero Beach, Florida, IS MODIFIED effective **April 21, 1988,** to specify operation on Channel 279C2 in lieu of Channel 288A at Vero Beach, Florida, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order* the licensee shall submit to the Commission a minor change application for a construction permit (Form 301);

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620;

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

9. The window period for filing applications on Channel 259C2 will open on **April 22, 1988,** and close on **May 23, 1988.**

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTES

[1] The license for Station WGYL(FM) was assigned to Treasure Coast Broadcasting, Limited Partnership, effective December 31, 1986.

[2] Petitioner's comments of May 1, 1987, have been accepted for consideration herein since they provide the Commission with information regarding another available channel at Vero Beach (259C2). However, in accordance with the provisions of Section 1.415(d) other comments filed in response to the May 1, 1987 pleading have not been accepted since they provide no new information which would be of benefit to the Commission in resolving the issues of this proceeding.

[3] The coordinates for Channel 259C2 at Vero Beach are 27,49,45 - 80,28,30, and for Channel 279C2 27,39,19 - 80,23,49.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-295

In the Matter of

Amendment of Section 73.202(b), RM-5756
Table of Allotments,
FM Broadcast Stations.
(Edenton, North Carolina)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 11, 1988; Released: March 7, 1988

By the Chief, Allocations Branch:

1. At the request of Edenton Christian Radio, Inc. (petitioner), the Commission has before it the *Notice of Proposed Rule Making*, 2 FCC Rcd 4739 (1987), proposing the substitution of Channel 261C2 for Channel 261A at Edenton, North Carolina, and the modification of its license for Station WBXB to specify the higher powered channel. Comments and reply comments were filed by the petitioner and by Marine Broadcasting Corp. (Marine), licensee of Station WXQR(FM), Channel 288A, Jacksonville, North Carolina.

2. Marine does not oppose the allocation of Channel 261C2 to Edenton and the modification of Station WBXB accordingly. However, it requests that a site restriction of 15.7 kilometers north be imposed on the Edenton channel. Marine has before the Commission a petition for rule making requesting the modification of its license for Station WXQR(FM) to specify non-adjacent Channel 222C2 at Jacksonville and the allocation of Channel 262C1 there for use by other interested parties (MM Docket 88-40). In its comments herein, Marine states that the additional Edenton site restriction would avoid a conflict with its proposed 41.4 kilometer site restriction for Channel 261C1 at Jacksonville, thus allowing both parties to upgrade their respective stations.

3. Petitioner, in its comments, reiterates its intention to apply for the channel, if allocated. It notes that it had sought the upgrade of Station WBXB's facilities specifying its current transmitter site but agrees to the imposition of a 6.7 kilometer (4.2 mile) northeast site restriction, as proposed in the *Notice*. In its reply comments, however, it opposes the imposition of the additional site restriction requested by Marine. Petitioner states that Station WBXB is co-owned with Station WOWI(FM) in Norfolk, Virginia. It states that WOWI(FM)'s transmitter is located only 65.1 kilometers from the the alternate site proposed by Marine. Petitioner further claims that Station WOWI(FM)'s 60 dBu contour extends 51.3 kilometers from its transmitter, thus leaving only 13.76 kilometers for a WBXB 60 dBu contour before prohibited overlap is created. Even with the use of a directional antenna, petitioner asserts that if it is required to relocate its Edenton transmitter to accommodate Marine, Station WBXB would be limited to an effective radiated power of 4.45 kW at the standard height of 150 meters resulting in a city-grade contour that would "barely" encompass Edenton. Additionally, petitioner states that it has already received approval from the Federal Aviation Administration (FAA) to increase its tower height to 510 feet. It argues that there is no guarantee that it will be able to obtain such approval at a new site 15 kilometers north of Edenton. Therefore, it contends that it would be unreasonable and burdensome to require Station WBXB to expend additional funds for, among other things, a second FAA study which may not receive approval.

4. Noting that petitioner has agreed to comply with the 6.7 kilometer site restriction proposed in the *Notice*, Marine replies that the imposition of a further site restriction would not adversely impact Station WBXB. Rather, the further site restriction would permit petitioner to upgrade its facilities at Edenton and also permit the upgrading of Marine's Station WXQR at Jacksonville.

5. We have carefully reviewed the pleadings before us. Initially, we find that Channel 261C2 can be allocated to Edenton in compliance with the Commission's minimum distance separation requirements and can be used at Station WBXB's current transmitter site.[1] Additionally, we find that there is no need to impose the site restriction sought by Marine since the two proposals can be accommodated. In reviewing Marine's request, we have found that Channel 262C1 can be allotted to Jacksonville, compatible with the allocation of Channel 261C2 at Edenton at Station WBXB's transmitter site, if an additional 0.9 kilometer site restriction is imposed on the Jacksonville allotment, that is 42.3 kilometers east in lieu of 41.4 kilometers east.[2] Based on the above information, we believe that the public interest would be served by substituting Channel 261C2 for Channel 261A at Edenton since it could provide the community and its environs with expanded FM radio service. As proposed, we shall also modify petitioner's license for Station WBXB to specify the higher powered channel.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 21, 1988,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Edenton, North Carolina	261C2, 272A

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Edenton Christian Radio, Inc., for Station WBXB, Edenton, North Carolina, IS MODIFIED effective **April 21, 1988,** to specify operation on Channel 261C2, in lieu of Channel 261A, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTES

[1] The *Notice* stated that a 6.7 kilometer northeast site restriction was required to avoid a short-spacing to recently allocated Channel 262C2 at Hatteras, North Carolina (MM Docket 86-377) and to the licensed site of Station WYFI, Norfolk, Virginia. However, by *Report and Order* in MM Docket 86-377, 2 FCC Rcd 3737 (1987), the Commission instead allocated Channel 248C2 to Hatteras, and by action of December 18, 1987, the Commission licensed Station WYFI at the site specified in its construction permit (BPH-860110IE). Thus, the site restriction is no longer necessary and Channel 261C2 can be used at Station WBXB's current transmitter site.

[2] Marine's proposal is the subject of a *Notice of Proposed Rule Making*. *See* MM Docket No. 88-40, adopted January 14, 1988.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-77

In the Matter of

Amendment of Section 73.202(b), RM-5900
Table of Allotments,
FM Broadcast Stations.
(Key West, Florida)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 11, 1988 **Released: March 7, 1988**

By the Chief, Allocations Branch:

1. The Commission herein considers a petition for rule making filed by Key Chain, Inc. (petitioner), licensee of Station WKRY(FM), Key West, Florida, which seeks to substitute Channel 228C2 for Channel 228A at Key West, and to modify its Class A license to specify the new channel.

2. Petitioner submitted information in support of the proposal. A staff engineering study indicates that the proposed substitution of channels can be made in compliance with the minimum distance separation requirements. Petitioner proposes to upgrade at its current Class A transmitter site.[1]

3. In accordance with our established policy, we shall propose to modify the license for Station WKRY(FM), Channel 228A, to specify operation on Channel 228C2. Pursuant to Section 1.420 (g) of the Commission's Rules, we shall not accept other expressions of interest for use of Channel 228C2 at Key West. *See Report and Order* MM Docket 85-313, 51 FR 20290, June 4, 1986.

4. Comments are invited on the proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, with regard to the following community:

	Channel No.	
City	Present	Proposed
Key West, Florida	223C1, 228A, 254C, 258C, 296A, 300C1	223C1, 228C2, 254C, 258C, 296A, 300C1

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 28, 1988,** and reply comments on or before **May 13, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

John Q. Hearne
Fisher, Wayland, Cooper and Leader
1255 23rd Street, N.W.
Washington, D.C. 20037
(Attorney for petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should

also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] Coordinates for Channel 228C2 at petitioner's site are 24,34,18 and 81,45,19.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-76

In the Matter of

Amendment of Section 73.202(b), RM-6054
Table of Allotments,
FM Broadcast Stations.
(Alma and Dublin, Georgia)

NOTICE OF PROPOSED RULE MAKING AND ORDER TO SHOW CAUSE

Adopted: February 11, 1988; Released: March 7, 1988

By the Chief, Allocations Branch:

1. The Commission herein considers a petition for rule making filed by State Broadcasting Company, Inc. (petitioner), licensee of Station WQZY(FM) (Channel 240A), Dublin, Georgia, proposing to substitute Channel 240C2 for Channel 240A at Dublin, and to modify its Class A license to specify the Class C2 channel. The proposal to allot Channel 240C2 to Dublin, will require the substitution of Channel 282A for Channel 240A at Alma, Georgia for Station WKXH-FM.[1]

2. A staff engineering analysis indicates that the spacing requirements for Channel 240C2 at Dublin can be met based on a pending application (BPH 870331IR) for Station WRXR-FM (formerly WJFX-FM) (Channel 240A), Aiken, South Carolina, relocating and upgrading to a Class C2 facility (Channel 242C2).[2] With regard to the spacing requirements for Alma, Georgia, the proposal to allot Channel 282A meets the spacing requirements to vacant Channel 281A at Reidsville, Georgia. [3] Coordinates for Channel 240C2 at Dublin (licensee's present site) are: 32,33,51 and 82,52,18 for Channel 282A at Alma (WKHX's licensee site) 31,36,26 and 82,32,46. In accordance with Commission policy, petitioner has stated its intention to reimburse Station WKXH-FM for reasonable and prudent expenses incurred by the change of channels. Thus we are issuing an *Order to Show Cause* to Station WKXH-FM to obtain its consent to change from Channel 240A to 282A.

3. In view of the above we shall propose to substitute Channel 240C2 for Channel 240A at Dublin, substitute Channel 282A for Channel 240A at Alma, Georgia, and modify each license accordingly. Pursuant to Section 1.420(g) of the Commission's Rules, the Dublin modification can be implemented without a showing that an additional channel is available for allotment to Dublin. *See Modification of Broadcast Licenses to Higher Class Co - Channels or Adjacent Channels*, 51 FR 20290, June 4, 1986.

4. Comments are invited on the proposal to amend the FM Table of Allotments (Section 73.202(b) of the Rules) with regard to the following communities:

	Channel No.	
City	Present	Proposed
Alma, Georgia	240A	282A
Dublin, Georgia	224A, 240A	224A, 240C2

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended Queen City Broadcasting System, Inc., licensee of Station WKXH-FM, Alma, Georgia, SHALL SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 282A as proposed herein instead of the present Channel 240A.

6. Pursuant to Section 1.87 of the Commission's Rules, Queen City Broadcasting System, Inc., may, not later that **April 28, 1988,** file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. The Commission may call on Queen City Broadcasting System, Inc., to furnish additional information. If Queen City Broadcasting System, Inc., raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, Queen City Broadcasting System, Inc., will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

7. IT IS FURTHER ORDERED, That the Secretary SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of the *Notice of Proposed Rule Making* and *Order to Show Cause*, to the licensee of Station WKXH-FM, as follows: Queen City Broadcasting System, Box 1987, Alma, Georgia 31510.

8. IT IS FURTHER ORDERED, That the Secretary SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of this *Notice of Proposed Rule Making* and *Order to Show Cause*, to the licensee of Station WRXR-FM, as follows: Amici Broadcasting Co., Inc., 802 East Martintown Road, North Augusta, South Carolina 29841.

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

10. Interested parties may file comments on or before **April 28, 1988,** and reply comments on or before **May 13, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Lawrence J. Bernard, Jr.
Ward and Mendelsohn, P.C.
1100 17th Street, N.W.
Suite 900
Washington, D.C. 20036
(Counsel for petitioner)

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

12. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] Petitioner also suggested alternate Channels 224A, 250A, 289A and 298A for allotment to Alma, Georgia. A staff study shows that a transmitter site for each of these channels must be located more than 13 kilometers from the city which is usually too far to provide the required city coverage.

[2] Final action in this proceeding is contingent on Station WRXR-FM relocating and becoming licensed as a Class C2 facility (Channel 242C2).

[3] A previously filed application for Reidsville was dismissed on September 25, 1987. Coordinates for Channel 240C2 at Dublin (licensee's present site) are: 32,33,51 and 82,52,18 and for Channel 282A at Alma (WKHX's licensee site) 31,36,26 and 82,32,46.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-75

In the Matter of

Amendment of Section 73.606(b), RM-5334
Table of Allotments,
TV Broadcast Stations.
(Panama City, Florida)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 11, 1988 **Released: March 7, 1988**

By the Chief, Allocations Branch:

1. The Commission herein considers a petition for rule making filed by Nolan Ball (petitioner), which seeks the amendment of Section 73.606(b) of the Rules by reserving UHF television Channel *47, at Panama City, Florida, for noncommercial educational use. Petitioner's proposal would be short spaced to pending rule makings for Channel 46 at Panama City Beach, Florida (RM-5254). Our staff engineering study indicates that Channel *68 can be allotted to Panama City in lieu of Channel *47.[1]

2. Panama City (population 33,346), seat of Bay County (population 97,740), is located in the Florida Panhandle approximately 80 miles southwest of Tallahassee. Panama City is presently allotted three commercial channels (7+, 13 and 28-), and one noncommercial educational channel (*56).

3. We believe that the public interest would be served by proposing the allotment of Channel *68 to Panama City as a second noncommercial educational television service. The allotment can be made in compliance with the minimum distance separation requirements of Section 73.610 and 73.698 of the Rules.[2] In comments to the *Notice* petitioner is requested to state his willingness to apply for Channel *68.

4. Accordingly, we shall propose to amend the Television Table of Allotments Section 73.606(b) of the Rules as it pertains to following community:

	Channel No.	
City	Present	Proposed
Panama City, Florida	7+, 13, 28-, *56	7+, 13, 28-, *56, *68-

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 28, 1988,** and reply comments on or before **May 13, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Nolan Ball
2413 North Harris Avenue
Panama City, Florida 32405
(Petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certificationthat Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment

is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] Based on the distances to Miami and St. Petersburg, Florida, the proposal for Channel *68 at Panama City is not affected by the freeze imposed on television allocations to that area (MM Docket 87-268, RM-5811).

[2] Coordinates for Channel *68 are 30,09,36 and 85,39,36.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-208

In the Matter of

Amendment of Section 73.202(b), RM-5650
Table of Allotments,
FM Broadcast Stations.
(Bay City, Texas)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 5, 1988 **Released: March 7, 1988**

By the Chief, Allocations Branch:

1. At the request of Sandlin Broadcasting Company, Inc. (petitioner), licensee of Station KMKS-FM, Channel 221A, Bay City, Texas, the Commission considers herein the *Notice of Proposed Rule Making*, 2 FCC Rcd 3685 (1987), proposing the substitution of Channel 273C2 for Channel 221A at Bay City, Texas, and modification of its license accordingly. The proposal could provide a first wide coverage area station at Bay City. In response to the *Notice*, petitioner filed supporting comments restating an intention to upgrade its station's facilities. Bay Broadcasting Ltd. (Bay Broadcasting), licensee of Station KIOX(AM), Bay City, expressed an interest in the Class C2 allotment. Supporting comments were also filed by KRTS, Inc. (KRTS), licensee of Station KLEF(FM), Channel 221A at Seabrook, Texas.[1] Petitioner and KRTS each filed reply comments. Oakdale Limited Partnership (Oakdale Limited), licensee of Station KICR-FM, Channel 285A at Oakdale, Louisiana, submitted a motion to consolidate this proceeding with several other pending cases.[2] Oppositions to the motion were filed by KRTS and Voice in the Wilderness Broadcasting, Inc. (Voice), licensee of Station KTFA(FM), Channel 221A, Groves, Texas. [3]

2. Petitioner, in its reply comments, suggested Channel 241C2 as an additional equivalent allotment in order to accommodate the expressed interest of Bay Broadcasting and any other party interested in a Class C2 station at Bay City. In its reply comments, KRTS supports the additional allotment.

3. We have confirmed that Channel 241C2 can be allocated to Bay City for use by other interested parties. In view of the availability of an additional channel, we are herein modifying the license of Station KMKS-FM to specify operation on Channel 273C2 in lieu of Channel 221A. *See* Section 1.420(g) of the Commission's Rules and *Modification of FM and TV Stations Licenses*, 98 FCC 2d 916 (1984).

4. We believe the public interest would be served by allocating Channel 241C2 and Channel 273C2 as a substitute for Channel 221A at Bay City, Texas, providing that community with its first and second wide coverage area FM service. Both channels can be allocated in compliance with the Commission's minimum distance separation requirements with site restrictions. Channel 273C2 requires a site restriction of 24.7 kilometers (15.3 miles) southwest of Bay City (28-47-59 and 96-06-56) to avoid a short spacing to Station KMJQ(FM), Channel 271C, Houston, Texas. Channel 241C2 requires a site restriction of 25.4 kilometers (15.8 miles) southwest of the city (28-47-32 and 96-06-58) to avoid short spacings to Stations KIKK-FM, Channel 239C and KKHI(FM), Channel 243C at Houston, Texas.

5. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 21, 1988,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

City	Channel No.
Bay City, Texas	241C2, 273C2

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Station KMKS-FM, Bay City, Texas, IS MODIFIED, to specify operation on Channel 273C2 in lieu of Channel 221A, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

7. The window period for filing applications for Channel 241C2 will open on **April 22, 1988,** and close on **May 23, 1988.**

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTES

[1] KRTS currently has a petition before the Commission to upgrade its facilities which is contingent upon a favorable decision here. *See* MM Docket No. 87-276, 2 FCC Rcd 4666 (1987).

[2] Oakdale Limited, a party in *Lafayette, Louisiana*, 2 FCC Rcd 7303 (1987), requested the consolidation of this proceeding with MM Docket No. 87-104 (Jennings, Louisiana, Groves and Nederland, Texas), MM Docket No. 87-196 (Lafayette, Louisiana) and MM Docket No. 87-276 (Seabrook, Texas), in order to upgrade its facilities from Channel 285A to 239C2. Various pleadings were filed in response to this request. We believe it is unnecessary to consolidate the aforementioned proceedings herein, since we find there is no conflict. In addition, we believe that such action is unwarranted and would further delay this proceeding.

[3] C. R. Crisler (Crisler) responded with two sets of additional reply comments. Oakdale Limited filed a reply. A Motion to Dismiss was filed by Jennings Broadcasting Company, Inc. (Jennings Broadcasting), Oakdale Limited filed a motion to strike, to which Crisler filed an opposition. We have not considered the Crisler nor Oakdale Limited reply comments, since the Commission's Rules do not provide for the filing of additional reply comments, beyond the pleading cycle pursuant to Section 1.415(d). Therefore, the subsequent pleadings of Jennings Broadcasting, Oakdale Limited and Crisler are moot.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-309

In the Matter of

Amendment of Section 73.606(b), RM-5807
Table of Allotments,
Television Broadcast Stations.
(Montrose and Scranton, Pennsylvania)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 5, 1988; Released: March 7, 1988

By the Chief, Allocations Branch:

1. At the request of Christian Discerner, Inc. (petitioner), the Commission has before it the *Notice of Proposed Rule Making*, 2 FCC Rcd 5087 (1987), proposing the reallocation of vacant UHF TV Channel 64 from Scranton, Pennsylvania, to Montrose, Pennsylvania, as the community's first local television service. Petitioner filed comments and reply comments supporting the reallocation. Comments in opposition to the proposal were filed by Ted H. Ehrhardt, Jr. d/b/a/ Ehrhardt Broadcasting (Ehrhardt), an applicant for Channel 64 at Scranton (BPCT-870616KH).

2. Ehrhardt opposes the deletion of Channel 64 from Scranton. While the *Notice* stated that the construction permit which had been issued to Scranton Family Television, Ltd. (BPCT-830310KG) for the channel at Scranton had been cancelled by letter of February 16, 1987, he states that the Commission failed to acknowledge that two applications had been accepted and granted cut-off protection.[1] Ehrhardt points out that the *Notice* apparently was premised on a belief that there was a lack of interest in use of Channel 64 at Scranton. However, in light of the pending applications, he argues that there is no longer any basis for the proposed reallotment. In support, he cites *Martin and Salyersville, Kentucky*, 50 RR 2d 502 (1981), and *Fond du Lac and Sheboygan, Wisconsin*, 55 RR 2d 502 (1984). Ehrhardt goes on to state that it is the Commission's long-standing policy to retain an existing allotment where there is interest in use of the channel unless there is a clear preference for the new community, citing *La Salle and Pontiac, Illinois*, 53 RR 2d 392 (1983). In this instance, he contends that there is not merely an expression of interest in use of the channel but two applications which have already been granted cut-off protection. In view of the the cut-off status of the applications, Ehrhardt submits that the reallocation of the channel would violate the concepts of administrative finality since a contrary decision would render the Scranton applications null and void and add an element of instability to the Commission's allotment proceedings. Therefore, he asserts that Channel 64 must remain allocated to Scranton absent a showing of clear preference for Montrose by the petitioner.

3. In comparing the competing claims for Channel 64, Ehrhardt contends that it is obvious that the Montrose proposal is unjustified and unsupported. He states that under applicable case law, television channels are allocated primarily for city and regional use and not for use at smaller communities, citing *Knoxville Broadcasting Corp.*, 59 RR 2d 1617 (Rev. Bd. 1986), and *Cleveland Television Corp.*, 52 RR 2d 581 (Rev. Bd. 1982), rev. den. FCC 83-235 (1983), aff'd 732 F. 2d 962 (D.C. Cir. 1984). Ehrhardt submits that Scranton is by far the largest city in the region while Montrose is a "small hamlet" of 1980 persons. In addition, he states that Montrose lies within the predicted service contours of the Scranton and Binghamton television stations. Therefore, he argues that the benefit of bringing a first local service to Montrose must be subordinated to the need for an additional regional service. Ehrhardt also disputes petitioner's claim that the residents of Montrose are not able to receive a good quality signal because of rugged terrain. Based on a limited review by his engineering consultants, Ehrhardt states that Montrose receives reliable signals from one Scranton independent station and three network stations licensed to Binghamton, New York. Ehrhardt believes that a similar showing could be made for the Scranton stations which were not addressed in his consulting engineers' report. Finally, he states that if Channel 64 is reallocated to Montrose, the Commission cannot accept applications due to the recently imposed freeze of UHF channels in certain markets (see *Notice*, fn. 2), while there are already two qualified applicants for the allotment of Scranton, both of which have proposed to bring immediate service to the area. Therefore, he argues that retention of the channel at Scranton would result in the earlier inauguration of service to the public.

4. Petitioner, in rebuttal, contends that the *Martin and Salyersville, Kentucky*, and *Fond du Lac and Sheybogan, Wisconsin*, cases, *supra*, cited by Ehrhardt are not directly applicable to this proceeding. Petitioner argues that the basis for its requesting the reallotment was not only the non- use of Channel 64 at Scranton but the greater need for the channel at Montrose. It states that where the Commission proposes to reallocate a channel based on a lack of interest and an expression of interest is received, the Commission then looks to the normal comparison of the cities to make its determination under Section 307(b), citing *Martin and Salyersville, Kentucky, supra* (50 RR 2d 503, para. 5). It states that Montrose, the seat of Susquehanna County, has no local television service. Scranton, on the other hand, has four other channels and nearby Wilkes Barre and Hazleton each have a channel. Petitioner contends that even through Montrose itself is small, with a population of 1991 persons, the population of its county is substantial (38,814 persons), and Montrose's status as a county seat "clearly" makes it a significant community for allocation purposes. It claims that there is no greater need for Channel 64 at Scranton, based on what it describes as a lack of interest in use of the channel for years after it was allocated coupled with the fact that when finally applied for, the permittee allowed the construction permit to expire without building the station. It also disputes Ehrhardt's contention that television channels are allocated for regional use, contending that if that were so, then channels would not have been allocated to

Wilkes Barre and Hazleton but instead only to Scranton. Petitioner argues that the allotment at Hazelton is particularly significant since both it and Montrose are small communities located approximately 30 miles from Scranton. It does not dispute Ehrhardt's showing concerning television reception from the Binghamton stations and the one independent station at Scranton. However, it states that the Commission has long recognized the difficulties of reception in this part of the country, noting that the cable television was begun in order to provide television service to areas shielded by mountainous terrain. Because of the terrain, petitioner claims that there are parts of Scranton and Wilkes Barre which are unable to receive over-the-air signals from their local stations. In addition, petitioner argues that Binghamton is in a different state and that these stations "hardly" meet the needs of Montrose. Petitioner also states that no protection should accrue to Ehrhardt because of its cut-off status. Rather, it contends that it is the petitioner which should receive such protection since it filed its request prior to the filing of either application. Finally, absent evidence of his financial qualifications, petitioner states that the Commission cannot consider Ehrhardt's application as an indication that service could be provided to the area at an earlier date than would occur if the channel were reallocated to Scranton.

DISCUSSION

5. Petitioner herein seeks to provide Montrose with its first local TV service by reallocating Channel 64 from Scranton, without replacement. A staff study shows that Channel 64 is the only channel which can be allocated to Montrose. In proposing the allotment, the *Notice stated that the channel at Scranton was both unoccupied and unapplied for. However, as has been pointed out, applications for the use of the channel at Scranton have been filed by two parties and these applications have now been granted cut-off status.*

6. It is Commission policy not to reallocate a channel in which interest has been expressed, absent a sufficient reason to do so, and we find that petitioner has failed to provide suFond *du Lac and Sheboygan, Wisconsin, supra,* and cases cited therein. Petitioner contends that Montrose suffers from reception problems but it has provided no showing to this effect. Petitioner does not dispute Ehrhardt's showing that Montrose receives service from several of the Binghamton and Scranton stations. Rather, it merely states that Binghamton is located in a different state and thus its stations do not meet the needs of Montrose. We also cannot find that a comparison of the two communities dictates that Montrose be awarded Channel 64. Petitioner argues that its proposal should be preferred based on the status of Montrose as a county seat and the fact that the allotment could provide the community with its first local service. While we believe that Montrose is a community which the Commission could consider as meriting its own local television service, we do not find that its status or lack of local service is a sufficiently overriding reason to overturn the Commission's policy of retaining channel allotments at communities where an interest has been expressed. Further, the fact that Channel 64 may not have been activated at Scranton for some time after it was originally allocated does not require a finding that there is no need for its use now. On the contrary, we find that such a need is apparent by the fact that applications for its use have been filed. Additionally, petitioner has not cited any case where the Commission has deleted a channel, without replacement, where interest has been expressed. Finally, with respect to petitioner's request that Ehrhardt demonstrate in this proceeding his financial qualifications to be a licensee, we find that this is not germane to the rule making proceeding but should be addressed in connection with the pending application.

7. Based on the above discussion, we find that the petitioner has failed to present a sufficient reason why Channel 64 should be deleted from Scranton, where applications for its use have been received, and its reallocation to Montrose. Accordingly, IT IS ORDERED, That the petition for rule making filed by Christian Discerner, Inc. to allocate Channel 64 to Montrose, Pennsylvania, IS DENIED.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] Robin C. Brandt filed an application for a construction permit for the Scranton channel (BPCT-870331KG), on March 31, 1987. Public Notice of the Brandt application was given on May 12, 1987 (Report No. A-130), and a cut-off date for the filing of competing applications was set for June 16, 1987. Ehrhardt filed his application on June 16, 1987, which was given Public Notice on August 5, 1987 (Report No. B-138).

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

American Telephone and Telegraph Company
Request for Waiver of Interim
Cost Allocation Manual and
Part 65 of the Commission's Rules

MEMORANDUM OPINION AND ORDER

Adopted: December 28, 1987; Released: March 7, 1988

By the Chief, Common Carrier Bureau:

1. By letter dated November 25, 1987, American Telephone and Telegraph Company (AT&T) has requested an extension of the Common Carrier Bureau's waivers of the requirements of the Interim Cost Allocation Manual (ICAM) and Part 65 of the Commission's Rules, 47 C.F.R. Part 65, with respect to particular service offerings by AT&T.

2. The subject waivers were originally granted by Bureau Orders that permitted certain AT&T private line service offerings to become effective,[1] subject to the condition that revenues and costs of these services be excluded from the ICAM private line category for purposes of applying the equalization requirement and measuring AT&T's compliance with applicable Part 65 rules. This condition was imposed to permit the identification and separate regulatory consideration of these service offerings.

3. As AT&T observes, the Commission has since undertaken broader inquiries respecting the policies governing regulation of services provided by dominant carriers. *See* Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, 2 FCC Rcd 5208 (1987); Decreased Regulation of Certain Basic Telecommunications Services, CC Docket No. 86-421, 2 FCC Rcd 645 (1987).

4. These proceedings, depending on their resolution, could have significant consequences for the regulatory treatment of the cited AT&T offerings. In any case, apart from the prospect of broad regulatory changes, the particular concerns raised by these offerings remain significant. Until the concerns that led to separate accounting requirements for these services are resolved, either in the context of the tariff proceedings or in the context of the more general inquiries, AT&T should continue to comply with the separate accounting and reporting requirements established for these services.

5. Accordingly, IT IS ORDERED that this Bureau's waiver of requirements of the Interim Cost Allocation Manual and of Part 65 of the Commission's Rules, 47 C.F.R. Part 65, to the extent necessary to comply with separate accounting instructions for ACCUNET-Packet Service, Defense Commercial Telecommunications Network, and SKYNET Ku-Band Service, IS EXTENDED until **December 31, 1988.**

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

FOOTNOTE

[1] American Telephone and Telegraph Company, Transmittal No. 474, Memorandum Opinion and Order, Mimeo No. 3264, released Mar. 25, 1986 (ACCUNET- Packet Service); American Telephone and Telegraph Company, Transmittal No. 415, Memorandum Opinion and Order, Mimeo No. 3502, released Apr. 3, 1986 (Defense Commercial Telecommunications Network); American Telephone and Telegraph Company, Transmittal No. 581, Memorandum Opinion and Order, Mimeo No. 4620, released May 20, 1986 (SKYNET Ku-Band).

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: March 7, 1988

CLARIFICATIONS REGARDING REVISED FM TABLE OF ALLOTMENTS

On September 29, 1987, we released the *Public Notice, Allotments Pursuant to BC Docket No. 80-90*, 52 Fed. Reg. 39774, published October 23, 1987. That *Public Notice* announced the release of a revised FM Table of Allotments (Section 73.202 of the Commission's Rules) reflecting the March 2, 1987, reclassification of Class B and Class C FM stations pursuant to BC Docket No. 80-90. Other changes were also included and the *Public Notice* and the revised FM Table of Allotments were published in both the Federal Register and the FCC Record.

The *Public Notice* also advised the public that questions or discrepancies regarding either the *Public Notice* or the Table should be directed to the Allocations Branch, Mass Media Bureau. Since the release of the *Public Notice*, three matters have been brought to our attention.

The first involves Channel 238A at Carmel, California. This allotment was included in the revised Table even though the *Report and Order* allotting Channel 238A to Carmel was not adopted until November 4, 1987 (MM Docket No. 87-38). As such, our action including the Carmel allotment in the revised Table was premature. However, the *Report and Order* has since been adopted and the Channel 238A allotment at Carmel in the Table is now correct.

The second matter involves a request by FM Station KEZS, Channel 275B, Cape Girardeau, Missouri. Zimmer Broadcasting Company, Inc., the licensee of Station KEZS, notes that its application, seeking an increase in power and a change in class from Class B to Class C1 (File No. BPH-8502071V) was granted on May 24, 1985. For this reason, Zimmer Broadcasting Company, Inc. requests that the Table be corrected to reflect Class C1 status for Station KEZS. This action would be premature. The covering license application for Class C1 facilities (File No. BLH-870501KC) has not yet been granted. Once the covering license application is granted, the Table will be revised to specify Channel 275C1 at Cape Girardeau, Missouri.

The third matter involves Channel 216B at Thousand Oaks, California. Channel 216B is a noncommercial educational FM channel and should not have listed in the FM Table of Allotments. Accordingly, this allotment will be deleted.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 85-298

In re Applications of

ARMANDO GARCIA — File No. BPH-840629IA
Guadalupe, California

REIMER BROADCASTING LIMITED — File No. BPH-840629II
Guadalupe, California

For Constructon Permit
for a new FM Station

Appearances

William M. Barnard and *Mark Van Bergh* on behalf of Armando Garcia; and *Richard H. Waysdorf, Rebecca L. Dorch* and *Michael Drayer*, on behalf of Reimer Broadcasting Limited.

DECISION

Adopted: February 24, 1988; Released: March 7, 1988

By the Review Board: MARINO (Chairman), BLUMENTHAL. [1] and ESBENSEN.

Board Member ESBENSEN:

1. This proceeding now involves the two remaining mutually exclusive applicants seeking authority to construct and operate a new Class A FM facility on FM Channel 288A (105.5 mHz) at Guadalupe, California.

2. The only extant issues tried in the adjudicatory proceeding below were those encompassed by the "standard comparative" issue, which also included a determination of the areas and populations that would receive FM service from each of the applicant's proposed facilities and the availability of other primary aural services in such areas.

3. By *Initial Decison*, 2 FCC Rcd 4166 (1987)(I.D.), presiding Administrative Law Judge Edward Luton (ALJ) found Armando Garcia (Garcia) to be the superior applicant. However, prior to issuance of his I.D., the ALJ denied a motion filed by Reimer Broadcasting Limited (Reimer) which urged the addition of financial qualification issues against Garcia. *Order*, FCC 86M-2673 (released August 29, 1986). Following the issuance of the I.D., Reimer timely filed exceptions and Garcia submitted a reply thereto. Oral argument before the Board was heard on October 30, 1987. At the conclusion of the oral argument, we indicated that we would be issuing an appropriate order directing Garcia to submit additional financial data since we expressed some concern with Garcia's financial qualifications premised on the allegations raised by Reimer in its initial Motion to Enlarge Issues and again in its exceptions. By *Memorandum Opinion and Order*, 2 FCC Rcd 6845 (Rev. Bd. 1987), we directed Garcia to file with us certain financial documentation and appropriate explanations relating thereto to aid us in making a determination as to whether or not this proceeding should be remanded to the ALJ.

4. Thus, before us at this juncture are the exceptions and replies filed by the parties and the requested financial documentation filed by Garcia, a Reply thereto filed by Reimer, and non-requested additional responses filed by both parties. Based upon our review of all these documents, the oral argument, and our own independent review of the record, we (1) do not find that there are any substantial and material questions of fact arising with respect to the financial qualifications of Garcia which would require a remand, and (2) affirm the ALJ in all material respects, except as modified herein, and grant Garcia's application.

5. *Financial Qualifications* : It appears that Reimer fully realized that in order to prevail in this proceeding over an obviously comparatively superior applicant (*see* discussion, *infra*, paras. 16-20), it would have to justify disqualification of Garcia. While it is within the bounds of good advocacy to do so, Reimer has here attempted to disqualify Garcia by attacking virtually every aspect of Garcia's financial qualifications. But, as one of our colleagues rather succinctly stated some years ago:

> It is recognized that in comparative licensing proceedings where the applicants' qualifications are frequently fairly close, it is all but irresistible to attempt to stick the competition with a misrepresentation or lack of candor finding as a surefire way to secure the license. It is not surprising, therefore, that our comparative case law is littered with allegations of prevarication to the point where an unfamiliar reader would deduce that our processing files are a collective rap sheet of the nation's pathological liars.

Fox River Broadcasting, Inc., 88 FCC 2d 1132, 1139 n. 15 (Rev. Bd. 1982).

6. We turn first to Garcia's financial plan and proposed costs of construction and operation. In September 1981, Garcia filed, also as an individual, an application for a new Class A FM facility at Grover City, California. Grover City, Garcia avers, is located some 12-15 miles north of Guadalupe. Guadalupe would have been within Grover City's proposed service area, and Grover City is within the proposed service area of Garcia's proposed Guadalupe facility (Garcia Memorandum, para. 3). Garcia proposed to operate his Grover city facility with an effective radiated power of 3.0 kilowatts from an antenna situated on a tower of 266-feet. Garcia similarly initially proposed to operate the Guadalupe facility with the same power from an antenna of 295-feet. *Id.* On the "B-cut off" date in this proceeding, Garcia revised his instant proposal to reduce his effective radiated power to 0.16 kilowatts with an antenna to be mounted on a tower 50-feet in height. (Memorandum, pg. 2).

7. In his Grover City application (which utilized the former FCC Form 301, requiring a detailed break-down of specific expenses), Garcia responded with specificity to Section III, para. 1(a), which at that time required a

showing of expenses to be allocated, *inter alia*, to his proposed antenna system, RF generating equipment, test equipment, and program origination equipment. Garcia also submitted (Exhibit No. 1) a specific and highly-detailed breakdown and itemization of expenses in response to Section III, para. 1(b) in *eighteen* different categories ranging from site rental to postage to utilities. (Memorandum, Attachment 1).

8. While it is undisputed that in the application at issue herein Garcia utilized only the ultimate "bottom line" costs, as adjusted for time and inflation, from his Grover City application, we do not believe Garcia's estimated costs, nor his method of arriving at these costs for his Guadalupe application, are *per se* unreasonable. In his Grover City application (Exhibit No. 1), Garcia disclosed that he arrived at his detailed estimates based upon his discussions with "lawyers, engineers and professional broadcasters." In addition, Garcia has submitted an appropriate Declaration in this proceeding (Memorandum, Attachment 5) from Leonard Kesselman which, *inter alia*, clearly indicates that Kesselman, who is a lawyer, experienced broadcaster and licensee, and former employer of Garcia, assisted Garcia with both his Grover City and Guadalupe applications and the estimates of costs of construction therefor. The salient point is that Garcia had, in minute detail, prior to filing his Guadalupe application, reviewed each and every category of possible expenses for a virtually identical facility in an adjacent community and was obviously familiar with the financial requirements necessary to construct and operate such a facility.

9. Thus, under the specific circumstances of this particular proceeding, we hold that Garcia's estimated costs of construction and operation, for a facility substantially similar to that earlier proposed in a nearby community for essentially the same type of small Class A FM station, are not unreasonable. *Merrimack Valley Broadcasting, Inc.*, 82 FCC 2d 165, 168 n. 5 (1980) (Commission finds applicant's breakdown of expenses in only four categories, *i.e.*, General and Administrative, Sales, Programming, Technical, sufficient information to evaluate the reasonableness of its estimates). More importantly, in revising FCC Form 301 in 1981, the Commission declared:

> Presently, Section III requires detailed itemization of the projected expenditures and sources of funds. The applicant is also required to submit a balance sheet, a statement of yearly income and assorted documentation. *It is our experience that a proposed operation is rarely effectuated exactly as itemized in Section III. In that event, stringent itemization requirements do not appear relevant.*

Revision of FCC Form 301, 50 RR 2d 381, 382 (1981) (emphasis added).

10. We turn next to the question of reasonable assurance of adequate start-up funds and leases available to Garcia. In his response to our specific inquiry about his financial qualifications, Garcia submits estimates with respect to his proposed facility, both at the time of the filing of his application, and again as of December 1987. Garcia estimates that as of June 1984, his costs of construction and first three months of operation were approximately $52,000. As of December 1987, those costs increased to approximately $58,000. To meet these costs, Garcia submitted financial statements current as of those dates. On June 1, 1984, his current assets (consisting of cash on hand, publicly-traded stocks, and the value of his wife's retirement plan) exceeded his costs of construction and operation (as well as personal current liabilities) by approximately $23,000. As of December 1987, based upon the same considerations, his current assets exceeded his costs of construction and operation (including personal current liabilities) by some $28,000. [2]

11. It is undisputed that the foregoing financial data assumes that Garcia will be relying on (1) funds from his wife's retirement/pension plan, and (2) a lease of the necessary equipment to construct and operate the proposed Class A FM station. Reimer finds fault with Garcia's reliance on both. We disagree. With respect to the funds from Mrs. Garcia's retirement/pension plan, we note that as early as the pre-hearing depositions in this proceeding (on March 28, 1986), Garcia disclosed that he would be relying on "my family money" (Dep. Tr. 44). Indeed, Garcia had expressly sought formal written documentation of the specific funds available from Mrs. Garcia's pension plan well before the filing of Garcia's application (Memorandum, Attachment 7). In addition, Garcia has supplied further written documentation from the pension plan (as of October 1987), demonstrating that the funds available from the plan have increased from approximately $65,000 in 1984 to in excess of $100,000. (Memorandum, Attachment 7). Mrs. Garcia has submitted a Declaration which avers: (1) that she would retire from her employment with Beneficial Finance of California (where she has been employed for some 30 years) and use the proceeds from her pension fund to finance the proposed facility, if necessary; (2) that she wrote to her employer "*before my husband filed his application* " (in 1984) to ascertain the amount due her under the pension plan; and (3) that after receiving the additional October 1987 letter from her employer she followed up to ascertain the sums available if she retired in January 1988 (approximately $104,000), since the October 1987 letter referenced available funds as of January 1, 1989. (*Memorandum, id.*) [3] Absent any evidence that Mrs. Garcia's pledges are here disingenuous, her representations cannot be summarily discredited.

12. With respect to the lease of equipment, Garcia received written assurance from Pentek Leasing, Inc. for his then-proposed Grover City facility in August 1981. [4] A copy of that letter is submitted with Garcia's Memorandum (Attachment 5), and describes in detail the approximate amount of the lease and the terms thereof, including length of lease and terms of repayment. Garcia declares (Memorandum, Attachment 3) that prior to submitting his instant application, his local lawyer, Kesselman (*see* para. 8, *supra)* , contacted Pentek Leasing to ascertain whether a similar lease would be available for Guadalupe. Kesselman assured Garcia that Pentek had advised him that Pentek would be willing to make the same lease available. Kesselman has similarly submitted a Declaration which corroborates Garcia's statements, and indicates that Kesselman spoke with Benjamin Millerbis, then-President and Chief Executive Officer of Pentak Leasing, Inc., in June 1984. Millerbis advised Kesselman that Pentek remained willing to make available to Garcia the same lease for his Guadalupe station, "although the amount of the monthly payments would differ based on the actual interest rates" at the time the lease was actually executed (Memorandum, Attachment 6).

13. Kesselman also declares that following Reimer's filing of its Motion to Enlarge (financial) Issues against Garcia, he again attempted to contact Millerbis on behalf of Garcia to reconfirm reasonable assurance of the lease. At that time, Kesselman ascertained that Pentek had terminated its operation in "early 1986", and that Millerbis had established a new leasing company, Pentech Financial Services, Inc. Kesselman contacted Millerbis, and Millerbis confirmed the willingness of Pentech to lease equipment to Garcia. Pentech supplied appropriate written documentation (by letter dated June 23, 1986) to Garcia that confirmed Pentech's willingness to enter into a lease agreement (Memorandum, Attachments 5-6). Garcia has further supplied an appropriate Declaration from Millerbiswhich corroborates Garcia's and Kesselman's Declarations in all respects and "confirmed that Pentech Financial Services would provide him with a similar lease for his proposed Guadalupe station, contingent upon being granted a license [sic] to build a new station and approval of credit and financial conditions normally associated with such a lease." (Garcia Motion for Leave to Supplement Memorandum, pg. 3).

14. Reimer argues that these "confirmations" of the lease(s) available to Garcia "do not contain the ... implication that [the leasing company] has already examined and is satisfied with the applicant's current financial status. *See RA-AD of Soddy*, 56 FCC 2d 1055, 1058 (Rev. Bd. 1975)." However, in this regard, Reimer apparently overlooks the Commission's clear declaration made nearly eight years ago:

> Turning to the equipment purchases, it is true that the supplier has not expressly indicated its examination of and satisfaction with Merrimack Valley's financial condition. However, while such a failure has been held in the past to warrant an issue, *seee.g.,RA-AD of Soddy*, 56 FCC 2d 1055, 35 RR 2d 1053 (Rev. Bd. 1975), this approach is not consistent with our current goal of making financial standards more realistic. *Financial Qualifications Standard for Aural Broadcast Applicants*, ... 69 FCC 2d 407, 43 RR 2d 1101 (1978). *Experience shows that permittees do not usually have difficulty obtaining credit for equipment purchases. Hence we will now question an applicant's ability to do so only upon a specific showing that its credit-worthiness is subject to doubt.*

Merrimack Valley Broadcasting, Inc., supra, at 168 (emphasis in original; footnote omitted).

15. In sum, with respect to Garcia's financial qualifications, there is simply one question before us: Does the record, or any documents submitted by the parties establish the requisite *prima facie* case for issue enlargement, and thus are there substantial and material questions of fact which would require a remand to the ALJ for further hearings on Garcia's financial qualifications and/or any misrepresentation that arose from Garcia's execution of his application and the certification of his financial qualifications? *See Gencom Inc. v. FCC*, 832 F. 2d 171 (D.C. Cir. 1987); *Scott and Davis Enterprises, Inc.*, 88 FCC 2d 1090, 1097 (Rev. Bd. 1982). We have recently reviewed at some length the Commission's current financial requirements for broadcast applicants. *Las Americas Communications, Inc.*, 1 FCC Rcd 786 (Rev. Bd. 1986). In that proceeding, an applicant was disqualified for filing a false financial statement. Our determination there was predicated on a finding that the applicant lacked documentary support *or other similar evidence that funds would be available. Also, in Vela Broadcasting Co.*, 2 FCC Rcd 3663 (Rev. Bd. 1987), we affirmed the disqualification of an applicant where it was demonstrated that no documentation had been assembled and no financial plan had been established when the FCC Form 301 certification was made by the applicant. *See also Susan S. Mulkey*, FCC 87R-72 (released February 8, 1988). Here, however, we hold that Garcia has provided sufficient documentation demonstrating the reasonable assurance of funds and/or resources to be made available for construction and operation of his proposed facility. Further, with respect to allegations that Garcia falsely certified his application, it is well-established that an intent to deceive must be demonstrated to support a misrepresentation issue. *Scott & Davis Enterprises, supra,* at 1099. Indeed, substantial evidence of an intent to deceive is the *sine qua non* of any prospective misrepresentation issue. *Riverside Broadcasting Company, Inc.*, FCC 86-236 (released May 14, 1986). In light of the facts and circumstances here present, we hold that Garcia, who had made serious and reasonable efforts prior to filing his instant application to ascertain the predictable costs of construction and operation and had given thought to the sources of funds to meet these costs, cannot be seen to have engaged in misrepresentation. Though Reimer attempts to raise the required substantial and material questions of fact concerning Garcia's financial qualifications, we find that it has not shown that the requisite substantial grounds exist for pursuing Garcia further on this matter. *See generally, Citizens for Jazz on WRVR, Inc.*, 775 F.2d 392 (D.C. Cir. 1985) ("substantial" means whether or not "the totality of the evidence arouses a sufficient doubt on the point that further inquiry is called for"); *See also Columbia Broadcasting Coalition v. FCC*, 505 F.2d 320, 330 (D.C. Cir. 1974); *Broadcast Enterprises, Inc. v. FCC*, 390 F. 2d 483, 485 (D.C. Cir. 1968).

16. *Comparative considerations* : We concur with the ALJ that both Reimer and Garcia are equal under the primary diversification criterion, well-established in the Commission's *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393 (1965). Neither has any attributable ownership interest in a medium of mass communications, and neither party has excepted to the ALJ's findings and conclusions in this regard. The parties are similarly equal under the important "integration of ownership and management" criterion also well-established and enunciated in the Commission's *Policy Statement, supra.* Again, neither party has excepted to the ALJ's findings and conclusions regarding proposed integration. [5] Both parties propose auxiliary power for their respective facilities and are thus equal in this respect. (I.D., paras. 24-25). Neither party has excepted to this determination. The ALJ awarded a very slight advantage to Reimer on the issue of comparative coverage (I.D., para. 26), and neither party has excepted to this conclusion. Thus, this contest will turn on the qualitative enhancements of the applicants after considering local residence, civic participation, broadcast experience, and minority participation.

17. It is settled that *local residence* is a fundamental consideration in the Commission's licensing scheme. *Radio Jonesboro, Inc.*, 100 FCC 2d 941, 945 (1985). It is also undisputed that Garcia has resided in Guadalupe for over 20 years. (I.D., para. 3). On the other hand, Reimer has never resided in Guadalupe, but only proposes to move there if his applicant-organization is awarded the construc-

tion permit at issue herein. (I.D., para. 14). The ALJ properly awarded a substantial preference to Garcia for his long-term local residence. *See Radio Jonesboro, Inc.*, 96 FCC 2d 1106, 1108 n. 2 (Rev. Bd. 1984). Reimer argues, however, that his slight preference for his proposal to move to Guadalupe should be increased to at least a "moderate" preference because of his purported "knowledge of and interest in Guadalupe and immediate surrounding communities that will allow him to meet the programming needs" of the proposed station discerned from his residence in Santa Barbara County, California, in which Guadalupe is located. (Reimer Exceptions, para. 40). Since 1982 Reimer has lived in the county communities of Santa Barbara, Lompoc, and Goleta. We note, however, that the Santa Barbara and Goleta residences were 45-50 miles distant from Guadalupe, and Lompoc, where Reimer lived less than one year (Tr. 87-92), is purportedly "two to five miles" outside of Reimer's proposed 1 mv/m coverage contour. (Reimer Exceptions, para. 36). Further, with respect to Reimer's residence in Lompoc, his testimony is, charitably, less than lucid in this regard (*See* Tr. 87-92). Reimer has not cited any precedent, nor are we aware of any, where an applicant whose principals reside outside the proposed service area have been awarded local residence credit. Moreover, his membership in various *area* civic organizations (none specifically headquartered in Guadalupe, I.D., paras. 16-20), although entitled to some credit for civic activities, *see Radio Jonesboro, Inc., supra,* 100 FCC 2d at 947 n. 5, do not entitle him to an elevated local residence credit. In sum, there is nothing in the record that would indicate that Reimer's promise to move to Guadalupe (for local residence credit) should be elevated beyond the ordinary slight preference awarded by the ALJ, since it has repeatedly been recognized that the Commission considers residence of several years' duration much more significant than proposed future residence. *See Jarad Broadcasting Company, Inc.*, 1 FCC Rcd 181, 186 (Rev. Bd. 1986); *Payne Communications, Inc.*, 1 FCC Rcd 1052, 1061 (Rev. Bd. 1986); *Talleyrand Productions*, 103 FCC 2d 476, 480 (Rev. Bd. 1985). Similarly, in this latter regard, we will not disturb the ALJ's findings with respect to Garcia's and Reimer's civic participation, but will modify his conclusions slightly to note that neither applicant is entitled to a preference on this criterion; that is, although Reimer's activities are slightly more extensive than those of Garcia, those activities relate solely to the service area as opposed to Garcia's in-community activities.

18. In considering Reimer's exceptions that Reimer's credit for past broadcast experience should be elevated beyond the slight preference awarded by the ALJ, we agree. However, in modifying the I.D. in this regard, we believe that Reimer should only be awarded a moderate preference over Garcia for his 12 years experience versus Garcia's 8 years experience occuring in the 1970s. Both have served in managerial positions, although Garcia's experience is less. However, Reimer is incorrect that Garcia's production and broadcasting of a Spanish language program on KZON(AM) from 1970 to 1976 is entitled to little or no weight. In *New Continental Broadcasting Co.*, 88 FCC 2d 830, 849-850 (Rev. Bd. 1981), credit was awarded for producing and hosting radio and television shows. Indeed, as we stated flatly there, the *Policy Statement* does not require that the "broadcast experience" be management-related or similar to [the] proposed new duties in order to be credited. *See James and Sharon Deon Sepulveda*, 3 FCC Rcd 9, 10 (Rev. Bd. 1988); *Newton Broadcasting*, FCC 88R-4 (released February 5, 1988). In any event, past broadcast experience is generally deemed less significant than some of the other comparative factors that must be considered. *Policy Statement*, supra, at 396.

19. Thus, at this juncture and even absent consideration of Garcia's minority status, we concur with the ALJ and hold that Garcia is the comparatively superior applicant. Reimer's moderate preference over Garcia for broadcast experience and very slight credit for comparative coverage, do not outweigh the fundamentally significant local residence credit awarded to Garcia.

20. Further, in its recent *Reexamination of the Commission's Comparative Licensing ... Premised on Racial, Ethnic or Gender Classifications, Order,* FCC 88-17 (released January 14, 1988), the Commission specifically ordered that the presiding administrative law judges, the Review Board, and the Office of General Counsel process all comparative licensing cases in a manner consistent with Commission policy (concerning, *inter alia*, minority preferences) in effect prior to September 12, 1986. *See Cannon's Point Broadcasting Company*, FCC 88-45 (released February 23, 1988). In 1985, the Commission declared that minority preferences were a significant and "fundamental consideration" in comparative proceedings. *Radio Jonesboro, Inc.*, 100 FCC 2d 941 (1985). Here, the ALJ found that Garcia was Hispanic. Reimer has not excepted to this determination (only to the constitutional aspects of the preference, which the Board shall not address). Thus, Garcia, as sole owner and individual applicant, is fully entitled to his special minority preference. Withal, therefore, Garcia is the overwhelmingly preferred applicant.

21. ACCORDINGLY, IT IS ORDERED That Armando Garcia's Motion for Leave to File Reply One Day Late, filed September 16, 1987, IS GRANTED; Reimer Broadcasting Limited's Petition for Leave to Amend, filed October 26, 1987, IS GRANTED, and the amendment IS ACCEPTED; and,

22. IT IS FURTHER ORDERED, That Armando Garcia's Motion for Leave to Supplement Memorandum, filed December 14, 1987, IS GRANTED and the supplement IS ACCEPTED; Reimer Broadcasting Limited's Contingent Request to Reopen the Record filed December 24, 1987, IS DENIED; Armando Garcia's Motion for Leave to File Reply, filed January 20, 1988, IS GRANTED, and the Reply IS ACCEPTED; and, Reimer Broadcasting Limited's Contingent Motion to Accept Supplemental Comments, filed January 28, 1988 IS GRANTED and the comments ARE ACCEPTED; and,

23. IT IS FURTHER ORDERED, That the application of Reimer Broadcasting Limited (File No. BPH-840629II) IS DENIED, and the application of Armando Garcia for a new Class A FM facility at Guadalupe, California (File No. BPH-840629IA) IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Eric T. Esbensen
Member, Review Board

FOOTNOTES

[1] Board Member Blumenthal did not participate in the oral argument on October 30, 1987, and the other three members of the Board as then-constituted heard the case. However, pursuant to Section 0.361(c) of the Commission's Rules, 47 C.F.R. §0.361(c), Board Member Blumenthal has read the transcript and the record in this proceeding and is now participating.

[2] Reimer speculates that, because of Mrs. Garcia's bout with cancer and Mr. Garcia's abandonment of his then-existing employment to care for her, the Garcias' financial qualifications are even more suspect. (Exceptions, paras. 25-28). However, Mrs. Garcia has set forth in some detail in her Declaration (Garcia Memorandum, Attachment 7) that all of her medical bills were covered by insurance and that she continued to receive her full salary from her long-term employer.

[3] Reimer argues that the letter from Mrs. Garcia's employer dated June 12, 1984 (in response to a request to ascertain amounts due Mrs. Garcia under her retirement plan) merely reflects the value of the plan in September 1985. There is no evidence that substantially the same sums would not have been available earlier. Indeed, Mrs. Garcia's Declaration with respect to sums available now from her plan (approximately $104,000) demonstrates that there is virtually no difference in the sums due her if she retired in January 1988 or January 1989.

[4] Reimer makes much of a loose statement by Garcia, occurring during an argument between counsel at the deposition session, that Garcia would "buy," rather than "lease," his broadcast equipment. However, the deposition colloquy should be considered in context. (Dep. Tr. 50-51):

> [Mr. Riehl]: What kind of studio equipment did you plan for this Guadalupe application?
>
> [Mr. Van Bergh]: Objection. We don't have an equipment issue or a site issue and anything that would go into the details of what type of equipment he's going to have at the station.
>
> [Mr. Riehl]: I'm asking for what plans did you make for your studio equipment:
>
> [Mr. Van Bergh]: I don't understand what you mean by "plans."
>
> [Mr. Riehl]: I'm entitled to inquire completely into the manner in which he went about preparing the application, the plans he made in effectuating his proposal. I'm not asking about dollar numbers or anything like that.
>
> [Mr. Van Bergh]: I understand that. At some point there is a fine line, you'll agree, between going into what an applicant did in preparing an application and crossing over into areas that are site issues, or financial issues, or studio issues.
>
> [Mr. Riehl]: I understand that. I'm not ever asking for dollars. I'm asking for what plans he made for studio equipment.
>
> [Mr. Van Bergh]: In other words, what kind of equipment he planned?
>
> [Mr. Garcia]: I'm buying it, if that's what you mean.
>
> [Mr. Riehl]: No, the type.
>
> [Mr. Van Bergh]: Hold on a minute.
>
> [Mr. Riehl]: I'm asking for the type. Buying it or leasing, I didn't ask either one of those questions. I'm asking for the type of equipment you planned to utilize in your operation.

[5] Even though Reimer was on notice as early as the pre-hearing depositions in this proceeding (Dep. Tr. 44) that Garcia would rely on family funds for construction and operation of the facility, and recognizes this plan in its Exceptions (Reimer Exceptions, para. 26), Reimer declares: "Reimer does not dispute that both it and Garcia were entitled to 100% quantitative integration credit" (Exceptions, para. 33). Reimer now attempts to have the record reopened, and Garcia's integration credit reduced to 50%, based upon the purported "surprise" that Mrs. Garcia would, if necessary, make funds available from her pension plan. (Reimer's Comments on Garcia's Memorandum, paras. 30-33). In light of the prior notice Reimer had as to the source of funds, we find no "newly discovered" evidence upon which to reopen the record. *Leiniger-Geddes Partnership*, 2 FCC Rcd 3199, 3200 (Rev. Bd. 1987); *News-Sun Broadcasting Co.*, 27 FCC 2d 61, 62 (1971). Additionally, Reimer has not specifically raised any exception to Garcia's integration credit and has thus waived any subsequent objection thereto. 47 C.F.R. §1.277(a).

Joseph A. Marino
Chairman, Review Board

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-518

In re Applications of

TURQUESA ENTERPRISES — File No. BPH-850712RL

CHRISTINE G. SANCHEZ — File No. BPH-850712RZ

For a Construction Permit for a
New FM Station, Channel 266C,
Hatch, New Mexico

MEMORANDUM OPINION AND ORDER

Adopted: February 19, 1988; Released: March 7, 1988

By the Review Board:

1. A Joint Request for Approval of Settlement Agreement, and accompanying agreement, was filed February 11, 1988 by Turquesa Enterprises and Christine G. Sanchez (Sanchez). Earlier, on February 9, 1988, Sanchez had filed a notice of appeal. The joint request was filed in lieu of the appeal by Sanchez from Administrative Law Judge Joseph Stirmer's ruling dismissing Sanchez's application for failure to file a timely notice of appearance and filing fee. *Order*, FCC 88M-211, released January 29, 1988.

2. In light of the fatal deficiencies found by the ALJ, which are not disputed by the parties, the Board cannot entertain the instant petition. *See* Section 1.221(c) of the Commission's Rules ("[i]n order to avail himself of the opportunity to be heard, the applicant, in person or by his attorney, shall, within 20 days of the mailing of the notice of designation for hearing . . . [here no later than December 18, 1987, *see Hearing Designation Order*, 2 FCC Rcd 7086, 7087-7088] file a written appearance . . . . Where an applicant fails to file such a written appearance within the time specified . . . the application will be dismissed with prejudice for failure to prosecute"); section 1.221(f) ("processing fee must accompany each written appearance . . ."); section 1.221(g) ("written appearance that does not contain the proper fee . . . shall be dismissed . . . "). *See also* Note to Section 1.221 ("ongoing negotiations that may lead to a settlement [do] not affect the requirement to pay the hearing fee").

3. ACCORDINGLY, IT IS ORDERED, That the Joint Request for Approval of Settlement Agreement filed February 11, 1988 by Turquesa Enterprises and Christine G. Sanchez IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

Joseph A. Marino
Chairman, Review Board

MM Docket No. 86-445

In re Applications of

BARBARA KAY TURNER	File No. BPH-850201MB
CITRONELLE FM GROUP, LIMITED PARTNERSHIP	File No. BPH-850703MC
GEORGE M. COCKRELL & PAUL JAMES COCKRELL d/b/a TWO C COMMUNICATIONS	File No. BPH-850711OD
CITRONELLE BROADCASTING COMPANY, LTD.	File No. BPH-850712SD
LEWIS M. ANZEK	File No. BPH-850712SE

For Construction Permit
for a New FM Station
Citronelle, Alabama

ORDER

Adopted: February 19, 1988; Released: March 7, 1988

By the Review Board:

1. In this proceeding, the competing applicants reached settlement agreements which were approved by the presiding judge in *Memorandum Opinion and Order*, FCC 87M-2700, released October 28, 1987. Thereafter, on November 27, 1987, three of the dismissing applicants petitioned the Review Board to set aside the judge's order on the ground that the granted applicant, Barbara Kay Turner, had violated the terms of their agreements by failing to place in escrow sums she had agreed to pay them. At Turner's request, she was then granted time extensions to December 31, 1987 to respond to the set aside motion so that she might make the payments and moot the controversy. On January 15, 1988, two of the petitioning applicants, Citronelle FM Group and Citronelle Broadcasting Company, and on February 3, 1988, the third petitioner, Lewis Anzek, withdrew their requests because Turner had satisfied her obligations to them under the agreements.

2. ACCORDINGLY, IT IS ORDERED, That the withdrawal motions filed herein on January 15 and February 3, 1988 ARE GRANTED and the motion to set aside order approving settlement, filed November 27, 1987, IS DISMISSED.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 83-657
and 84-835

In re Applications of

THE SEVEN HILLS TELEVISION COMPANY — File Nos. BRCT-830601KJ and BPTT-840308IQ

For Renewal of License of
KTVW-TV Phoenix, Arixona, *et al.*

ERRATUM

Released: March 7, 1988

The *Memorandum Opinion and Order*, FCC 88R-8, released February 22, 1988, is computer garbled and is corrected as follows:

Paragraph 6, line 4, delete the number "7"

Paragraph 6, line 5, delete the letters "U.S.C"

BY DIRECTION OF THE REVIEW BOARD

Allan Sacks
Chief for Law

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-82

In re Applications of

MARVIN G. SCHWARTZ (hereafter Schwartz)	File No. BPH-870312MF
HARTLINE BROADCASTING (hereafter Hartline)	File No. BPH-870327MF
ENESTO C. NAJAR (hereafter Najar)	File No. BPH-870331MW
JOEL T. SAXBERG (hereafter Saxberg)	File No. BPH-870331NA
COLLINS RADIO BROADCASTING (hereafter Collins)	File No. BPH-870331PQ

For Construction Permit for a New FM Station on Channel 241A, San Jacinto, California

HEARING DESIGNATION ORDER

Adopted : February 17, 1988; Released : March 8, 1988

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Preliminary matters.* In its response to Section II, Item 6(a), FCC Form 301, Hartline reported that its principal, Jerry Ray Hartline, is presently employed as General Manager of radio stations KHSJ(AM) and KHYE(FM), Hemet, California, which is located approximately five miles south of the instant city of license, San Jacinto, California. The applicant further pledges that Mr. Hartline will terminate his relationship with KHSJ(AM) and KHYE(FM) prior to grant of the proposed San Jacinto, California station license. Accordingly, an appropriate condition will be specified below.

3. In response to Section VI, FCC Form 301, the applicant below has indicated that he will employ five or more full-time employees. Pursuant to 47 C.F.R. § 73.2080(c), the applicant is required to submit an Equal Employment Opportunity (EEO) Program in compliance with the provisions of the rules as set forth in FCC Form 396A, the five-point Model EEO Program. The EEO program submitted by the following applicant is incomplete or is otherwise deficient in the manner described below. Accordingly, the applicant listed below will be required to file an amended EEO program with the presiding Administrative Law Judge within 30 days of the release of this Order.

APPLICANT	DEFICIENCY
Najar	Failed to identify specific sources of recruitment specializing in women and minority candidates.

4. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Since no determination has been received from the Federal Aviation Administration as to whether the antenna proposed by the applicant below would constitute a hazard to air navigation, an issue with respect thereto will be included and the F.A.A. made a party to the proceeding. *APPLICANT* : Collins.

6. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, IT IS ORDERED, That, pursuant to 47 U.S.C. § 309(e), the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by the following applicant would constitute a hazard to air navigation: Collins.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted, if any.

8. IT IS FURTHER ORDERED, That in the event of a grant of the Hartline application, the construction permit shall be conditioned as follows:

Prior to the commencement of operation of the station authorized herein, the permittee shall certify to the Commission that its principals have terminated any relationship with the licensee of KHSJ(AM) and KHYE(FM), Hemet, California.

9. IT IS FURTHER ORDERED, That within 30 days of the release of this Order, the following applicant shall submit Section VI information in accordance with the requirement of 47 C.F.R. § 73.2080(c) to the presiding Administrative Law Judge: Najar.

10. IT IS FURTHER ORDERED, That the Federal Aviation Administration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

11. IT IS FURTHER ORDERED, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., N.W., Washington, D.C. 20554.

12. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to 47 C.F.R. § 1.221(c), in person or by attorney, within 20 days of the mailing of this Order, not later than **March 29, 1988,** file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

13. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to 47 U.S.C. § 311(a)(2) and 47 C.F.R. § 73.3594, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-84

In re Applications of

POSEY COUNTY BROADCASTING CO., INC. (hereafter Posey) File No. BPH-861023MD

SOUTHERN INDIANA BROADCASTING (hereafter Southern) File No. BPH-861126MP

For Construction Permit for a New FM Station on Channel 294A in Mount Vernon, Indiana

HEARING DESIGNATION ORDER

Adopted : February 17, 1988 Released: March 8, 1988

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Preliminary Matters*. On December 23, 1987, Southern filed a petition to deny Posey's application based on allegations that Posey violated 47 C.F.R. § 1.1200, *et seq.* of the Commission's Rules concerning *ex parte* communication by soliciting elected representatives to aid in the prosecution of its application and by making an undisclosed presentation to the Commission regarding the merits of its proposal for new FM service to Mount Vernon, Indiana. On January 6, 1988, Posey filed an opposition to Southern's petition to deny its application. Southern's petition to deny is essentially a petition to specify issues. Because the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contested Broadcast Applications* ; Amendments of Part 1 of the Commission's Rules, 72 FCC 2d 202 (1979), directed the deletion of all issue pleading in pending cases, the matters raised in Southern's petition will not be considered in the Hearing Designation Order. Accordingly, Southern will be afforded the opportunity to raise these allegations post-designation pursuant to 47 C.F.R. § 1.229(a). Therefore, Southern's petition to deny must be dismissed.

3. In response to Section VI, FCC Form 301, the applicants below have indicated that they will employ five or more full-time employees. Pursuant to 47 C.F.R. § 73.2080(c), each applicant is required to submit an Equal Employment Opportunity (EEO) Program in compliance with the provisions of the rules as set forth in FCC Form 396A, the five-point Model EEO Program. The EEO program submitted by the following applicant is incomplete or is otherwise deficient in the manner described below. Accordingly, the applicant listed below will be required to file an amended EEO Program with the presiding Administrative Law Judge within 30 days of the release of this Order.

APPLICANT	DEFICIENCIES
Southern	Failed to identify specific sources of recruitment specializing in women and minority candidates.

4. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, IT IS ORDERED, That, pursuant to 47 U.S.C. § 309(e), the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted, if any.

7. IT IS FURTHER ORDERED, That for the reasons set forth in paragraph 2 hereinabove, the petition to deny filed by Southern against Posey's application IS HEREBY DISMISSED.

8. IT IS FURTHER ORDERED, That within 30 days of the release of this Order, the following applicant shall submit Section VI information in accordance with the requirement of 47 C.F.R § 73.2080(c) to the presiding Administrative Law Judge: Southern

9. IT IS FURTHER ORDERED, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., N.W., Washington, D.C. 20554.

10. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to 47 C.F.R. § 1.221(c), in person or by attorney, within 20 days of the mailing of this Order, not later than March 29, 1988, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

11. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to 47 U.S.C. § 311(a)(2) and 47 C.F.R. § 73.3594, give notice of the hearing within the time and in the manner therein prescribed, and shall advise the Commission of the publication of such notice as required by 47 C.F.R. § 73.3594(g).

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-83

In re Applications of

KAREN E. YOUNGINGER (hereafter Younginger)	File No. BPH-870220MD
JOESEPH C. MOTTO (hereafter Motto)	File No. BPH-870312MI
WEBSTER - FULLER COMMUNICATIONS ASSOCIATION (hereafter WFCA)	File No. BPH-870312MJ
ANTHONY E. TRIMBLE (hereafter Trimble)	File No. BPH-870313MF
DENNY WORKMAN d/b/a WEBSTER COMMUNICATIONS (hereafter Workman)	File No. BPH-870313MM
PETER ACHILLES BROIKOU (hereafter Broikou)	File No. BPH-870313MP
CCI - FM, LTD. (hereafter CCI)	File No. BPH-870313MQ
BAY AREA COMMUNICATIONS (hereafter BAC)	File No. BPH-870313MR
WEBSTER BROADCAST ASSOCIATES (hereafter WBA)	File No. BPH-870313MY
WEBSTER BROADCASTING, INC. (hereafter WBI)	File No. BPH-870313NV

For a Construction Permit
For a New FM Station on Channel 274A (102.7 MHz)
in Webster, New York

HEARING DESIGNATION ORDER

Adopted : February 17, 1988 Released : March 8, 1988

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *WBI.* In its application, WBI specified an overall height above ground level with obstruction lighting of 320 feet. The Commission's Antenna Survey Branch has notified the staff that this value does not correspond with the data on file with the FAA, which indicates an overall tower height above ground level with obstruction lighting of 298 feet. Consequently, WBI will be required to submit a corrective amendment explaining and clarifying this discrepancy with the presiding Administrative Law Judge within 30 days of the release of this Order. In addition, an air hazard issue will be specified below.

3. Workman. The applicant has given negative responses to Section III, Items 1 and 2, FCC Form 301, pertaining to financial certification. Consequently, an issue as to the applicant's financial qualifications will be specified below.

4. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Since no determination has been received from the Federal Aviation Administration as to whether the antenna proposed by the applicant below would constitute a hazard to air navigation, an issue with respect thereto will be included and the F.A.A. made a party to the proceeding. APPLICANT: WBI.

6. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, IT IS ORDERED, That, pursuant to 47 U.S.C. § 309(e), the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the following applicant, in light of the evidence adduced concerning the deficiency set forth above in this Order, whether the applicant is financially qualified: Workman.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by the following applicant would constitute a hazard to air navigation: WBI.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted, if any.

8. IT IS FURTHER ORDERED, That, in accordance with paragraph 2 hereinabove, WBI shall submit a corrective amendment to the presiding Administrative Law Judge within 30 days of the release of this Order.

9. IT IS FURTHER ORDERED, That the Federal Aviation Administration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

10. IT IS FURTHER ORDERED, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., N.W., Washington, D.C. 20554.

11. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to 47 C.F.R. § 1.221(c), in person or by attorney, within 20 days of the mailing of this Order, not later than March 29, 1988, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

12. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to 47 U.S.C. § 311(a)(2) and 47 C.F.R. § 73.3594, give notice of the hearing within the time and in the manner therein prescribed, and shall advise the Commission of the publication of such notice as required by 47 C.F.R. § 73.3594(g).

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-78

In the Matter of

Amendment of Section 73.202(b), RM-6185
Table of Allotments,
FM Broadcast Stations.
(Leland, North Carolina)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 11, 1988 ; Released: March 8, 1988

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Leland Broadcasting Group (petitioner) requesting the allocation of either Channel 278A or Channel 283A to Leland, North Carolina, as the community's first local FM service. Petitioner states that it will apply for either channel, if allocated.

2. Both channels can be allocated to Leland in compliance with the Commission's minimum distance separation requirements. However, the allocation of Channel 278A to Leland conflicts with the pending request of Landsman-Webster Communications of North Carolina, Inc. to upgrade its Station WDKS at Dunn, North Carolina, from Channel 276A to Channel 278C2 (RM-6186), and Channel 283A at Leland conflicts with a request to substitute Channel 283A for Channel 287A at Wilmington, North Carolina, which was previously denied but is now before the U.S. Court of Appeals for the D.C. Circuit. In an effort to avoid these conflicts, the staff performed a channel search and found that Channel 231A can be allocated to Leland in compliance with the Commission's minimum distance separation requirements with a site restriction 8.6 kilometers (5.3 miles) southwest to avoid a short-spacing to unoccupied and unapplied for Channel 229A at Wrightsville Beach, North Carolina, and to Station WZKB, Channel 232A, Wallace, North Carolina.[1] Therefore, we have substituted Channel 231A for consideration herein.

3. We believe the public interest would be served by proposing the allocation of Channel 231A to Leland, North Carolina, as its first local FM service. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

	Channel No.	
City	Present	Proposed
Leland, North Carolina	--	231A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before **April 29, 1988,** and reply comments on or before **May 16, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Mark J. Prak, Esq.
Tharrington, Smith & Hargrove
Post Office Box 1151
209 Fayetteville Street Mall
Raleigh, North Carolina 27602
(Counsel to petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See* Certification *That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the

Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTE

[1] The coordinates for Leland are North Latitude 34o, 11' 09"; West Longitude 78o, 05' 13".

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-79

In the Matter of

Amendment of Section 73.202(b), RM-6058
Table of Allotments,
FM Broadcast Stations.
(Iuka, Mississippi)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 11, 1988 **Released: March 8, 1988**

By the Chief, Allocations Branch:

1. The Commission has before it for consideration a petition for rule making filed by Segars Communications, Inc. (petitioner), licensee of FM Station WTIB, Iuka, Mississippi, seeking the substitution of Channel 285C2 for Channel 285A at Iuka. Petitioner also requests the modification of the license for Station WTIB to specify Channel 285C2 instead of 285A.

2. We believe petitioner's proposal warrants consideration. Channel 285C2 can be allocated to Iuka in compliance with the minimum distance separation requirements of Section 73.207 of the Commission's Rules provided there is a site restriction 27 kilometers southwest of the community. The site restriction will prevent a conflict with Station WVRY, Channel 285A, Waverly, Tennessee and Station WLAY-FM, Channel 288A, Muscle Shoals, Alabama. Station WVRY, Waverly has filed a petition to upgrade its station to specify Channel 286C2 in MM Docket 86-325. Should this proposal be granted the site restriction could be reduced to 8.8 kilometers (5.5 miles) northwest. We shall also propose to modify the license of Station WTIB, Channel 285A, to specify operation on Channel 285C2 in accordance with Section 1.420(g) of the Commission's Rules.

3. In order to provide a wide coverage area station for the Iuka, Mississippi area, the Commission PROPOSES TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, as follows:

	Channel No.	
City	Present	Proposed
Iuka, Mississippi	285A	285C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before **April 29, 1988,** and reply comments on or before **May 16, 1988,** and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Robert Olender
Baraff, Koerner, Olender & Hochberg, P.C.
2033 M Street, N.W.
Suite 203
Washington, D.C. 20036

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in

initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-80

In the Matter of

Amendment of Section 73.202(b), RM-5625
Table of Allotments,
FM Broadcast Stations.
(Fort Myers Villas, Florida

NOTICE OF PROPOSED RULE MAKING

Adopted: February 12, 1988 ; Released: March 8, 1988

By the Chief, Allocations Branch:

1. The Commission herein considers a petition for rule making filed by Sunshine Broadcasting, Inc. (petitioner), which seeks to substitute Channel 291A for Channel 292A at Fort Myers Villas, Florida, and to modify its construction permit to specify Channel 291A.[1]

2. In justification of the request petitioner states that Fort Myers Villas is located on the east side of the Caloosabatchee River and Cape Coral on the northwest side, in the same area as its authorized transmitter site. Sunshine states that it wishes to relocate to the northwest side of the river due to FAA concerns. Petitioner also states that the rule changes made in Docket 80-90 make it possible to use Channel 291A (rather than Channel 292A) to accommodate the proposed site.

3. In order to comply with the minimum distance separation requirements of Section 73.207 of the Rules a site restriction 4.2 kilometers 2.6 miles east of the city must be imposed on Channel 291A at Fort Myers Villas to avoid short spacing to the pending applications for Channel 290A at Englewood, Florida (Docket 84-231).[2]

4. In view of the foregoing, the Commission proposes to amend the FM Table of Allotments, Section 73.202 (b) of the Rules, as it pertains to the following communities:

	Channel No.	
City	Present	Proposed
Fort Myers Villas, Florida	292A	291A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **April 29, 1988,** and reply comments on or before **May 16, 1988**and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Peter Tannenwald
Arent, Fox, Kintner, Plotkin and Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339
(Counsel for petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73. 202 (b), 73. 504 and 73. 606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should

also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FOOTNOTES

[1] A petition for reconsideration of the Commission's action which granted Channel 292A to Fort Myers Villas, was denied October, 1985, and an Application for Review of that decision, has also been denied (October, 1986).

[2] The coordinates for Channel 291A at the restricted site are: 26 33 26 - 81 49 48.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-360

In the Matter of

Amendment of Section 73.202(b), RM-5929
Table of Allotments,
FM Broadcast Stations.
(North Bend, Oregon)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 11, 1988 ; Released: March 8, 1988

By the Chief, Allocations Branch:

1. At the request of Big Bay Radio, Inc. (petitioner), the Commission has before it the *Notice of Proposed Rule Making*, 2 FCC Rcd 5598 (1987), proposing the allocation of Channel 297C1 to North Bend, Oregon, as the community's second local FM service. Petitioner filed comments reiterating its intention to apply for the channel, if allocated. No other comments were received.

2. We believe the public interest would be served by allocating Channel 297C1 to North Bend since an interest has been expressed in providing the community with its second local FM service. Channel 297C1 can be allocated to North Bend in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.[1]

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 22, 1988,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
North Bend, Oregon	235C1, 297C1

4. The window period for filing applications will open on **April 25, 1988,** and close on **May 25, 1988.**

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] The coordinates for this allotment are: North Latitude 43o, 24', 12"; West Longitude 124o, 13', 42".

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-358

In the Matter of

Amendment of Section 73.202(b), RM-5930
Table of Allotments,
FM Broadcast Stations.
(Nebraska City, Nebraska)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 11, 1988 ; Released: March 8, 1988

By the Chief, Allocations Branch:

1. At the request of Great Lakes Broadcasting Company (petitioner), the Commission has before it the *Notice of Proposed Rule Making*, 2 FCC Rcd 5602 (1987), proposing the substitution of Channel 249C2 for Channel 249A at Nebraska City, Nebraska, and the modification of its license for Station KNCY- FM to specify the higher powered channel. Petitioner filed comments reiterating its intention to apply for the channel, if allocated. No other comments were received.

2. We believe the public interest would be served by allocating Channel 249C2 to Nebraska City since it could provide the community and its environs with expanded local radio service. Channel 249C2 can be allocated to Nebraska City in compliance with the Commission's minimum distance separation requirements and can be used at Station KNCY-FM's present transmitter site.[1] In addition, we shall modify the license of Station KNCY-FM to specify operation on Channel 249C2, as proposed.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **April 22, 1988,** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Nebraska City, Nebraska	249C2

4. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Great Lakes Broadcasting Company, for Station KNCY-FM, Nebraska City, Nebraska, IS MODIFIED effective **April 22, 1988,** to specify operation on Channel 249C2 in lieu of Channel 249A, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

[1] The coordinates for Channel 249C2 at Nebraska City are: North Latitude 40o, 40' 06"; West Longitude 95o, 56', 40".

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of

ROBERT J. KILE File No. 00376-CL-AL-87

For consent to the assignment of
the license for station KNKA598
Ft. Myers, Florida MSA

ORDER

Adopted February 29, 1988 ; Released: March 8, 1988

By the Chief, Mobile Services Division:

1. The application of Robert J. Kile (Kile) was granted on January 28, 1987. *Robert J. Kile*, 2 FCC Rcd 585 (1987). Kile, with a 51.1% interest In the license, is the majority and controlling owner. The remaining 49.99% interest is divided among 143 other entities. Kile formed a limited partnership to hold his interest in the application. In August, 1987, Kile filed the above-captioned application to assign the license to Palmer Communications, Inc. (Palmer). P&T Communications, (P&T), one of the minority owners, filed a petition to dismiss or deny the application. Kile and Palmer filed oppositions. For the reasons given below, we grant the application for assignment.

2. P&T alleges that Kile's decision to assign control of the license is inconsistent with his representation in a Section 1.65 amendment filed in June. 1986 to his application. There, according to P&T, Kile stated his intention to retain control of the license. P&T seeks to have us delay processing the assignment application until Kile and Palmer "clarify the scope of this proposed transaction." *Petition* p.3

3. P&T also alleges that the assignment application fails to include the financial showings required by Section 22.917(c) of the Rules. According to P&T, the rule requires Palmer to file its estimated costs of acquisition, additional construction and operation for one year as well as evidence of sufficient financial resources to cover these costs. P&T argues that the application should be dismissed as defective because it lacks the financial information.

4. Finally, P&T objects to a provision in the settlement agreement that each member must not petition to dismiss or deny the winning application or its interest will be terminated. While this provision was not enforced against P&T, nonetheless it seeks to have the Commission declare it null and void as against public policy or to condition grant of the application upon the elimination of the provision.

5. Both Kile and Palmer filed oppositions to P&T's petition. At the outset, Kile claims that P&T, as a minority interest holder, has no standing to file the petition, citing *John R. Kingsbury*, 71 FCC 2d 1173 (1979) and *Arthur Lipper Corp.*, 85 FCC 2d 1023 (1980). Kile points out that P&T does not offer any legal basis for its claim that minority owners have the right to interfere with the transfer or assignment of a station by the majority owner. Kile and Palmer maintain that P&T's objections to the assignment concern private contractual rights and should be raised before the Florida state courts. According to Kile and Palmer, this Comission lacks jurisdiction over such matters,citing *Ninety - Two Point Seven Broadcasting, Inc.*, 55 Rad. Reg. 2d (P&F) 607 (1984) and *American Cellular Network Corp. of Nevada*, Mimeo 6198 (Common Carrier Bureau, August 6, 1986).

6. Kile then addresses P&T's claim that it made inconsistent statements before the Commission in its June 1986 amendment and August, 1987 application to assign the station. Kile explains that the June, 1986 amendment merely sets out a general description as to how the station will be operated and should not be construed as a limit on Kile's authority to transfer control of the station.

7. In response to the allegation concerning its financial qualifications, Palmer asserts that it is financially qualified. Palmer submitted a letter from the Bank of New York, its lending source, confirming its commitment to lend money to Palmer for the operation of the facilities.

8. Kile asserts that the prohibition in the settlement agreement against minority interest owners filing petitions to deny is a standard provision. Moreover, since Kile and Palmer did not enforce the provision against P&T, Kile maintains the provision has no effect on the assignment.

DISCUSSION

9. We find P&T's objections to Kile's assignment application to be without merit. Accordingly, we dismiss the petition to deny and grant the application for transfer of control.

10. P&T maintains that the purchase agreement entered into by Kile and Palmer is inimical to the financial interests of the minority owners. The Commission has held that minority owners cannot prevent the transfer of control of facilities on the basis that the transfer will cause them monetary harm. That is a matter for a private cause of action and generally does not fall within the jurisdiction of this Commission. *Sonderling Broadcasting Co.*, 46 Rad. Reg. 2d (P&F) 890 (1979) and cases cited in para. 5, *supra*. Further, P&T has not demonstrated that this assignment interferes with any prior contractual right or option to purchase the system.

> Petitioners claim no unlawful impairment of a contractual right to acquire these stations . . . and any harm which they may suffer from the transaction can clearly be satisfied by money damages pursuant to local judicial determination.

John R. Kingsbury, *supra*, at 1174. Therefore, we conclude that issues raised by P&T are a matter of private dispute and that this Commission is not the appropriate forum to resolve matters concerning P&T's financial interests in the application.

11. We find that P&T's allegations concerning representations Kile made in documents filed before the Commission have no legal significance. Kile stated in his June amendment that he intended to maintain control over the station. The fact that he subsequently entered into an agreement to assign the facilities to Palmer does not violate any Commission rule or policy and does not demonstrate that he attempted to mislead the Commission by

his representations in the June amendment. Once a cellular facility is constructed, as is the case here, the license is freely transferable. *Madison Cellular Telephone Co.*, 2 FCC Rcd 5397, 5398 n.6 (1987).

12. We also find that Palmer has demonstrated a reasonable assurance that it has funds available to finance the acquisition and to continue to operate the facility. While Palmer did not submit financial information with its assignment application, it remedied this omission by supplying a letter from The Bank of New York. The letter indicates that the bank is anticipating lending Palmer $10 million, which is in excess of the purchase price of $5,100,000. That leaves Palmer with a substantial financial cushion. Section 22.917(c) of the rules provides that applicants for assignment or transfer of control of a license demonstrate the financial ability of the assignee or transferee to acquire and operate the facilities by submitting adequate financial information under the guidelines specified in this rule. *See Multi - State Communications, Inc. v. FCC*, 590 F.2d 1117 (D.C. Cir. 1978); *cert. denied*, 440 U.S. 959 (1979); *WKBD Inc.*, 2 FCC Rcd 2488 (1987). Palmer has complied with this requirement.

13. As a final matter, we will not void the provision in the settlement agreement prohibiting the members of the settlement group from filing petitions to deny. Nor will we condition grant of the application on removal of the provision. While we recognize that the right to file a petition to deny is an important part of the licensing process, P&T voluntarily entered into a settlement agreement whose terms prohibited such a filing. In entering into the pre-lottery settlement agreement, P&F increased its chances for winning the lottery and, in fact, Kile, one of the members of the group, was chosen first in the lottery. P&F benefited from the settlement agreement and cannot now complain to the Commission because it no longer finds its terms agreeable. This is a private contractual problem that is best resolved by negotiation between the parties or in the courts. *See , Metromedia Company et al*, --- FCC Rcd ---- (1988). *See also, Ninety - Two Point Seven, supra ; Guidelines for Settlements and Changes in Ownership of Cellular Systems*, 59 Rad. Reg. 2d (P&F) 1450 (1986).

14. Accordingly, IT IS ORDERED, that the petition to deny filed by P&T Communications IS DENIED.

15. IT IS FURTHER ORDERED that the application filed by Robert J. Kile for consent to the assignment of its facilities to Palmer Communications, Inc. IS GRANTED.

16. This order is issued under Section 0.291 of the Commission's rules and is effective immediately. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the rules may be filed within 30 days of the date of the public notice of this order. *See* Section 1.4(b) (2).

FEDERAL COMMUNICATIONS COMMISSION

Kevin J. Kelley
Chief, Mobile Services Division
Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

INTERNATIONAL MESSAGE TELEPHONE SERVICE, INC.

File No. I-T-C-88-056

Application for authority to operate as an international resale carrier

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: February 29, 1988; Released: March 8, 1988

By the Acting Chief, International Facilities Division:

1. We have before us for consideration an application, filed on December 18, 1987, by International Message Telephone Service, Inc. (IMTS), requesting authority, pursuant to Section 214 of the Communications Act of 1934, as amended, to resell the switched message telephone services of existing carriers to provide international switched voice service between the U.S. and various overseas points. The application was placed on public notice on January 6, 1988. No comments were received.

2. Upon review of the application, we find that the applicant has the legal, technical and financial qualifications to provide the proposed services. IMTS, a Nebraska corporation, is a start-up company which proposes to resell international switched voice services in competition with other carriers already providing resale of such service. IMTS has filed the information required by the Commission pursuant to Section 63.01 of its Rules. In recent authorizations of new entrants, the Commission has recognized that increased competition in international markets is beneficial.[1] We find that the market will support additional carriers and that the added competition will be in the public interest.[2]

3. For the foregoing reasons, IT IS CERTIFIED that the present and future convenience and necessity require the provision of international switched voice services to the general public by IMTS.

4. Accordingly, IT IS ORDERED that application File No. I-T-C-88-056 IS GRANTED and IMTS is authorized to provide international switched voice services by the resale of the international switched voice services set forth in AT&T's Tariffs FCC Nos. 1 and 2, MCI Telecommunications Corp.'s Tariff FCC No. 1, US Sprint's Tariffs FCC Nos. 1 and 2, Allnet's Tariff FCC No. 1 and Satellite Business System's Tariff FCC No. 4, between the U.S., Hawaii, Puerto Rico and the U.S. Virgin Islands, on the one hand, and those points listed in those tariffs on the other hand.

5. Copies of any operating agreements entered into between IMTS and its correspondents shall be filed with the Commission within 30 days of their execution.

6. IT IS FURTHER ORDERED that IMTS shall file a tariff pursuant to Section 203 of the Communications Act, 47 U.S.C. Section 203, and Part 61 of the Commission's Rules, 47 C.F.R. Part 61, for the services authorized in this Order.

7. This order is issued under Section 0.291 of the Commission's rules and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the rules may be filed within 30 days of public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Acting Chief, International Facilities Division
Common Carrier Bureau

FOOTNOTES

[1] *See* the cases cited in Teltec Saving Communications Co., Mimeo No. 3548, (released April 4, 1986) at n. 2.

[2] FCC v. RCA Communications, Inc., 346 U.S. 86 (1953); Mackay Radio and Telegraph Co., 28 FCC 231 (1960).

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

MCI TELECOMMUNICATIONS CORPORATION — File No. I-T-C-88-062

Application for authority to acquire and operate facilities for service to New Zealand

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: February 29, 1988 **Released: March 8, 1988**

By the Acting Chief, International Facilities Division:

1. The captioned uncontested application, filed on January 12, 1988 by MCI Telecommunications Corporation (MCI), requests authority, pursuant to Section 214 of the Communications Act of 1934, as amended, to lease and operate satellite and connecting facilities for direct service to New Zealand. Upon consideration of the application, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the provision of direct service to New Zealand by MCI.

2. Accordingly, IT IS ORDERED that application File No. I-T-C-88-062 IS GRANTED, and MCI is authorized to:

a. lease from Comsat and operate twenty-four (24) voice-grade satellite circuits between the Yacolt, Washington earth station and an appropriate satellite over the Pacific Ocean, connecting with similar circuits between the satellite and an earth station in New Zealand furnished by MCI's correspondent in New Zealand;

b. own and operate twenty-four (24) voice-grade circuits in the Yacolt earth station to be used in conjunction with the satellite space segment;

c. own and operate twenty-four (24) voice-grade connecting circuits between MCI's Yacolt, Washington earth station and MCI's Dominguez Hills, California operating center; and

d. use said facilities to provide MCI's regularly authorized services between the U.S. and New Zealand and beyond.

3. The Commission retains jurisdiction over this matter to reallocate circuits in the satellite system among the various international common carriers and other authorized users as required to insure nondiscriminatory use of, and equitable access to, the communications satellite system.

4. No material changes inconsistent with this or any other relevant Commission order shall be made before final execution of an operating agreement between MCI and its correspondent in New Zealand, and a copy of the agreement shall be filed with the Commission within 30 days of its execution.

5. This authorization is effective on its release date and shall be continued year-to-year, unless the Commission notifies the applicant to the contrary and requires a new application to be filed. If the Commission requires a new application to be filed, the authorization will continue in effect until Commission action on the application.

6. This order is issued under Section 0.291 of the Commission's rules and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the rules may be filed within 30 days of the date of public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Acting Chief, International Facilities Division
Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Paul Kelley d/b/a
American Teltronix

Request for Declaratory Ruling

DECLARATORY RULING

Adopted: February 29, 1988 **Released: March 8, 1988**

By the Chief, Private Radio Bureau:

1. The Private Radio Bureau has before it for consideration a Request for Declaratory Ruling, filed on September 29, 1987, by American Teltronix (AMTEL), and a Partial Opposition and Request for Further Abeyance of Commission Action, filed on October 16, 1987, by Mobilfone of Northeastern Pennsylvania (Mobilfone).[1] Mobilfone filed a supplement to its Partial Opposition on October 29, 1987, and AMTEL replied to Mobilfone's Supplement on November 10, 1987. Mobilfone submitted further supplements to its Opposition on December 29, 1987, and February 9, 1988. Amtel submitted responses to the further supplements on January 6, 1987, and February 19, 1988.

2. AMTEL asks us to find that its private carrier paging system is providing a private land mobile service within the meaning of Section 331(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 332(c)(1). AMTEL further requests that we find, pursuant to Section 331(c)(3) of the Act, 47 U.S.C. § 332(c)(3), that its service is not subject to state entry and rate regulation. In opposition, Mobilfone contends that AMTEL is not operating a private land mobile system within the meaning of Section 3(gg) of the Act, 47 U.S.C. § 153(gg), because it is providing paging service to users who are not Business Radio Service eligibles.[2] Mobilfone therefore requests that the Commission decline to issue a ruling and/or order AMTEL to show cause why its license should not be revoked, issue a cease and desist order, and impose a monetary forfeiture for serving ineligible users and demonstrating a lack of candor before this Commission.

3. Based on the facts before us, we conclude that AMTEL is operating a private land mobile radio system, as defined by Sections 3(gg) and 331(c)(1) of the Act. Section 331(c)(3) expressly preempts all state entry and rate regulation of private land mobile radio services. Therefore, the State of Pennsylvania is without authority to inquire into the regulatory status of the AMTEL system.

I. BACKGROUND

4. As the licensee of station WHM552, Wilkes-Barre, Pennsylvania, [3] AMTEL offers one-way paging service on a private carrier basis to business radio eligibles.[4] The AMTEL paging system consists of five discrete transmitters operating at 152.480 MHz and a 72 MHz control link at AMTEL's offices. A store-forward paging terminal located at AMTEL's offices receives pages from a leased private line. To page an AMTEL subscriber, a call is placed over a tone-dial telephone. The call is answered by a voice prompt, which instructs the caller to leave a voice message or enter the numbers for an alphanumeric message. The message is then recorded at the AMTEL terminal. A page is generated only after the telephone call has been terminated. The store-forward feature of AMTEL's system precludes direct activation of the transmitter from the public switched telephone network.[5]

5. Mobilfone is a radio common carrier with a service area overlapping that of AMTEL. On January 29, 1987, Mobilfone initiated proceedings before the Pennsylvania Public Utility Commission (PUC) to determine whether AMTEL is operating as an uncertificated common carrier.[6] Specifically, Mobilfone claims that AMTEL's system cannot be private because AMTEL does not limit its service offering to business radio eligibles. In support thereof, Mobilfone emphasizes the fact that AMTEL's agent, Telephone Answering People (TAP), is listed in the telephone directory under the heading, "Radio, Paging & Signaling Service--Common Carrier."[7] Mobilfone does not provide us with additional facts to substantiate its allegations.

6. AMTEL responds that it has consistently endeavored to limit availability of its service to eligible users.[8] AMTEL maintains, however, that even if its system were not in compliance with FCC Rules governing eligibility, this Commission, rather than the PUC, would have jurisdiction to determine whether AMTEL is operating its private land mobile system in accordance with Part 90 of the Commission's Rules. Furthermore, according to AMTEL, TAP is a non-exclusive commissioned agent erroneously categorized by the telephone directory publisher as a "common carrier." AMTEL itself appears in the directory under the heading, "Paging and Signaling Equipment and Systems."[9]

7. On November 12, 1987, the PUC adopted an Opinion and Order addressing the issue of whether it is empowered to hear Mobilfone's complaint.[10] While acknowledging that the FCC may serve as the "final arbiter" of whether AMTEL is operating within the scope of its license, the PUC determined that a violation of state law prohibiting the furnishing of uncertificated common carrier service had been alleged. The PUC concluded that the FCC's jurisdiction over private land mobile licensees in no way restricts the PUC's investigatory powers.[11]

II. DISCUSSION

8. At issue is whether AMTEL's communications system offers private land mobile radio service as defined by Sections 3(gg) and 331(c)(1) of the Communications Act, 47 U.S.C. §§ 153(gg) and 332(c)(1). If we find that AMTEL is operating a private land mobile radio system then, pursuant to Section 331(c)(3) of the Communications Act, 47 U.S.C. § 332(c)(3), state entry and rate regulation of AMTEL's paging service has been preempted by statute.[12] On the basis of the record before us, we find that AMTEL is operating a private land mobile system and that it is, therefore, not subject to entry and rate regulation by the State of Pennsylvania.

9. Congress enacted the Communications Amendments Act of 1982,[13] which established Sections 3(gg) and 331(c), to define clearly a private land mobile service, to set forth a test for distinguishing between private and common carrier land mobile service, and to establish the scope of

federal, state and local regulation of the land mobile services.[14] The accompanying legislative history reveals that a primary purpose of the legislation was to put an end to exactly the type of challenge AMTEL now faces:

> The distinction between private and common carrier land mobile services is the subject of considerable litigation between private land mobile operators and radio common carriers before the FCC and the courts. The Conferees believe that establishing this demarcation in the Communications Act of 1934 would serve the public interest by resolving much of this litigation.[15]

10. The test for determining whether Section 331 applies to a given communications system, as set forth in Section 331(c)(1) and its legislative history, turns on whether the system is engaged in resale of telephone services or facilities of a common carrier.[16] Application of this statutory test requires an inquiry as to whether the private system is licensed to multiple licensees or shared by authorized users and, if so, whether the system is interconnected with the public switched telephone network. In these circumstances an assessment is made of whether the entity providing the interconnection is reselling telephone exchange or interexchange service or facilities.[17] According to Section 331(c)(1), the private nature of a land mobile service offering is not affected by the fact that a service may be offered indiscriminately to users on a commercial basis.

11. Mobilfone has not argued that AMTEL is engaged in resale of common carrier services and facilities within the meaning of Section 331(c)(1). Inasmuch as Mobilfone has raised the issue of whether Section 331 applies to AMTEL's system, however, we have reviewed AMTEL's system configuration and we conclude that the AMTEL system satisfies the statutory interconnection restriction test for private land mobile services contained in Section 331(c)(1). AMTEL is not a multiple licensed system, nor has Mobilfone demonstrated that AMTEL is shared by authorized users. In this regard, we find controlling the decision in *Millicom*, note 16, *supra*. There, the court upheld our interpretation of Section 331(c)(1) in the context of a nationwide paging system licensed to a single entity proposing to serve users on a private carrier basis. Observing that the paging system was individually licensed and under the exclusive control of the licensee, the Court concluded that "[t]he interconnection restriction applies only to shared systems where the land station is controlled directly by the authorized users and not to every shared system merely because the end-users have access to the system through the licensee."[18] As in *Millicom*, AMTEL is the sole licensee of its paging system, and AMTEL alone has the ability to access and control the system transmitters.[19] Thus, we need not reach the question of interconnection.

12. We find no merit in Mobilefone's claim that Amtel's system does not qualify as a private land mobile service within the meaning of Section 3(gg) because it may have provided service to entities not eligible in the business radio service.[20] Mobilfone's unsupported allegations are insufficient proof of any failure on the part of AMTEL to act as a private land mobile licensee. The fact that Amtel's agent is listed under a particular telephone directory heading does not provide any indication of the nature of Amtel's service. The restrictions on Amtel's service agreement, however, indicate that Amtel's system is a private land mobile service within the meaning of the statute.

13. Similarly, we find no merit in Mobilefone's contention that Amtel has become a common carrier, and thus subject to state regulation, because it may have served ineligible users. The fact that Amtel may have served ineligible users does not render its system common carriage, but merely indicates that Amtel may have violated the terms of its license.[21] Mobilfone's argument in this regard seeks to reintroduce the "holding out" test of common carriage enunciated in *NARUC v. FCC*, 525 F.2d 630 (D.C. Cir. 1976), *cert. denied*, 425 U.S. 992 (1976), as the standard for applying Section 331. In enacting Section 331(c)(1), however, Congress specifically rejected the *NARUC* criteria as the standard for determining the status of land mobile services.[22]

14. Finally, we address the scope of authority reserved to the states under Section 331(c)(3) of the Act with respect to private land mobile operations. The statutory language and legislative history of Section 331(c)(3) unambiguously provide that the states have no authority to impose any rate or entry regulation on private land mobile services. Accordingly, because AMTEL is a private system, the State of Pennsylvania is precluded from subjecting AMTEL to rate or entry regulation.

15. Accordingly, IT IS HEREBY DECLARED, pursuant to Sections 1, 3(gg), and 331(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153(gg) and 332(c), that AMTEL is duly licensed to offer private land mobile radio service, and that any entry or rate regulation of such offerings by state or local governments is without force and effect.

FEDERAL COMMUNICATIONS COMMISSION

Ralph A. Haller
Chief, Private Radio Bureau

FOOTNOTES

[1] Mobilfone filed a Request for Abeyance of Commission Action on October 9, 1987, seeking to postpone disposition of the AMTEL Request until the Bureau considers the merits of Mobilfone's Opposition. Mobilfone's Request is granted to the extent that the Bureau has chosen to evaluate Mobilfone's Opposition prior to issuing this ruling.

[2] Eligibility in the Business Radio Service is defined by 47 C.F.R. § 90.75(a), which provides as follows:

> Persons primarily engaged in any of the following activities are eligible to hold authorizations in the Business Radio Service to operate stations for transmission of communications necessary to such activities of the licensee:
>
> (1) The operation of a commercial activity.
>
> (2) The operation of educational, philanthropic, or ecclesiastical institutions.
>
> (3) Clergymen activities.
>
> (4) The operation of hospitals, clinics or medical associations.

[3] Paul Kelley, d/b/a American Teltronix, received his license on November 14, 1986, and commenced commercial operations on January 3, 1987.

[4] Provision 11 of the AMTEL service agreement requires the customer to agree "that the Paging Service will be used only for activities as allowed in FCC rule 90.75(a). Use of the service for any other activity constitutes cause for termination of service by the company." AMTEL currently has contracted to supply more than three hundred pagers to its subscribers. The majority of AMTEL's pagers are in use by hospitals, clinics, doctors, and other medical service providers.

[5] Request for Declaratory Ruling at 3-4.

[6] The PUC hearing commenced on October 20, 1987.

[7] Partial Opposition and Request for Further Abeyance of Commission Action at 2-3; Supplement to Partial Opposition and Supplement to Request For Show Cause Order.

[8] In its Reply to Further Supplement to Opposition and Request for Show Cause Order and Reply to Request For Show Cause Order, AMTEL concedes that it has provided service to eight customers who were later determined ineligible. In all eight cases, however, AMTEL states that it believed the customers to be eligible at the time it agreed to provide service, and that it discontinued service immediately upon learning of its mistaken determinations regarding eligibility. AMTEL represents that on the date its request for Declaratory Ruling was filed, AMTEL had discontinued service to all ineligible users.

[9] *See , generally*, Reply to Supplement to Partial Opposition and Request for Further Abeyance of Commission Action and Reply to Supplement to Request For Show Cause Order.

[10] Mobilfone of Northeastern Pennsylvania, Inc. v. Paul V. Kelley, d/b/a American Teltronix, Opinion and Order, File C-871182 (November 12, 1987).

[11] *Id.* at 8-9.

[12] Section 331(c)(3) provides that "no state or local government shall have any authority to impose any rate or entry regulation upon any private land mobile radio service." 47 U.S.C. § 332(c)(3).

[13] P.L. 97-259, 96 Stat. 1087 (September 13, 1982); *See* , Conference Report No. 765, 97th Cong., 2d Sess. 54, *reprinted in* 1982 U.S. Code Cong. and Ad. News 2237 (Conference Report). (Hereinafter, all citations to the Conference Report will reference pages of the original printing.)

[14] Conference Report at 54.

[15] *Id.* at 54-55.

[16] *See* Conference Report at 55. *See also*, Telocator Network of America v. FCC, 761 F.2d 763 (D.C. Cir. 1985) (*Millicom*).

[17] *Id.*

[18] *Millicom*, 761 F. 2d at 767.

[19] The paging system in Millicom was licensed pursuant to Section 90.494 of the Commission's Rules, 47 C.F.R. § 90.494, governing one-way paging operations in the 929-930 MHz band. AMTEL is licensed pursuant to Section 90.179 of the Rules, 47 C.F.R. § 90.179, relating to shared use of radio stations below 800 MHz. Although AMTEL is licensed under a subpart of our rules referencing "shared" use, AMTEL is the sole authorized user of its transmitter facilities. The AMTEL system is "shared" only to the extent that AMTEL is not entitled to exclusive use of its assigned frequency but must "share" the frequency with co-channel users. More importantly, the holding in Millicom is not restricted to operations within a particular frequency band but is generally applicable to all individually licensed systems with transmitters exclusively controlled by the licensee.

[20] Pursuant to Section 3(gg) of the Act, a private land mobile system consists of a "regularly interacting group of base, mobile, portable and associated control and relay stations . . . for private one-way . . . land mobile communications by eligible users . . . ." 47 U.S.C. § 3(gg).

[21] The evidence before us, especially in light of Amtel's good faith efforts to suspend service to ineligible users, does not support issuance of an Order to Show Cause or other administrative action with respect to violations of the Commission's Rules.

[22] Conference Report at 54.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-81

In re Applications of

JONESVILLE FM GROUP LIMITED PARTNERSHIP (hereafter JFG) — File No. BPH-851210MK

PETER J. RINALDI (hereafter Rinaldi) — File No. BPH-851212MD

For a Construction Permit for a New FM Station on Channel 266A (101. 1 MHz) in Jonesville, LA

HEARING DESIGNATION ORDER

Adopted: February 17, 1988 **Released: March 8, 1988**

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.[1]

2. *JFG.* Upon careful consideration of JFG'S January 22, 1986 petition for reconsideration, the Commission reinstated JFG'S application nunc pro tunc by letter dated July 24, 1987 and accepted the amended topographic site map filed with the petition. In light of the discussion in our July 24, 1987 letter, Rinaldi's opposition filed April 27, 1986 will be denied.

3. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determin- ing whether a comparative preference should accrue to any of the applicants.

4. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, IT IS ORDERED, That, pursuant to 47 C.F.R. § 309(e), the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted, if any.

6. IT IS FURTHER ORDERED, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., N.W., Washington, D.C. 20554.

7. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to 47 C.F.R. § 1.221(c), in person or by attorney, within 20 days of the mailing of this Order, not later than **March 29, 1988,** file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

8. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to 47 U.S.C § 311(a)(2) and 47 C.F.R. § 73.3594, give notice of the hearing within the time and in the manner therein prescribed, and shall advise the Commission of the publication of such notice as required by 47 C.F.R. § 73.3594(g).

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

FOOTNOTE

[1] On April 27, 1986, Rinaldi filed an opposition to the petition for reconsideration filed by JFG on January 22, 1986. The petition sought reinstatement of the JFG application which had been returned as insufficient for tender. The petition was granted and the application reinstated nunc pro tunc by letter from the Chief, FM Branch, on July 24, 1987. We find that our July 24, 1987 letter addressed adequately the reasons for the reinstatement of JFG's application and, accordingly, the opposition need not be considered.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Pacific Bell and Nevada Bell

Plan for the Provision of
Voice Mail Services

MEMORANDUM OPINION AND ORDER

Adopted: January 14, 1988 Released: February 18, 1988

By the Commission:

TABLE OF CONTENTS

	Paragraph
I. INTRODUCTION	1
II. BACKGROUND	2
III. SERVICE DESCRIPTION	3-6
IV. COMPLIANCE ISSUES	7
A. CEI Requirements	7
1. Proposed CEI Arrangements	8-9
2. CEI Parameters	10
a. Interface Functionality	11-13
b. Unbundling of Basic Services	14-17
c. Resale	18-20
d. Technical Characteristics	21-23
e. Installation, Maintenance and Repair	24-26
f. End User Access	27-29
g. CEI Availability	30-32
h. Minimization of Transport Costs	33-35
i. Recipients of CEI	36-38
3. CEI Pricing	39-45
4. Other Nonstructural Safeguards	46
a. Allocation of Joint and Common Costs	46
b. Customer Proprietary Network Information	47-55
c. Nondiscrimination Reporting	56-61
d. Network Information Disclosure	62-64
B. General	65
1. Competitive Fairness	65-70
2. Interstate Access	71-73
3. Modified Final Judgment	74-75
C. Billing	76-80
V. JURISDICTION	81-82
VI. ORDERING CLAUSES	83
Appendix A	

I. INTRODUCTION

1. On July 2, 1987, pursuant to the requirements of our *Computer III* proceeding,[1] Pacific Bell and Nevada Bell (Pacific) filed a Comparably Efficient Interconnection (CEI) Plan (the Plan) for the provision of Voice Mail Services (VMS), a type of enhanced service that allows users to leave and retrieve messages stored in equipment collocated with Pacific's basic service facilities. In this Order, we approve the Plan, provided that Pacific files amendments by March 21, 1988, conforming the Plan to changes in our *Computer III* nonstructural safeguards adopted in the *Phase II Recon Order*.[2]

II. BACKGROUND

2. The *Phase I Order* required the BOCs to file Open Network Architecture (ONA) plans by February 1, 1988, that include an initial set of key Basic Service Elements (BSEs) that can be used in a wide variety of enhanced services.[3] We ruled that, until they implement their ONA plans, the BOCs may offer a specific enhanced service, or class of services, on an unseparated basis only after we approve a plan that satisfies our CEI requirements, as well as other nonstructural safeguards governing the use of customer proprietary network information (CPNI), disclosure of network information, and nondiscrimination reporting.[4] Under CEI, carriers must provide interconnection opportunities to others on the basis of an "equal access" standard to insure that basic facilities are available to other enhanced service providers and users on an unbundled and functionally equal basis.[5] We use this standard to review plan compliance with the CEI parameters concerning interface functionality, unbundling of basic services, resale, technical characteristics, installation, maintenance, and repair, end-user access, CEI availability, minimization of transport costs, and recipients of CEI.[6]

III. SERVICE DESCRIPTION

3. Pacific's proposed VMS offering allows users to leave and retrieve messages stored in equipment collocated with Pacific's basic service facilities. As described in the Plan, the service has two applications. Its telephone answering application allows a customer to forward incoming calls automatically to Pacific's VMS equipment for storage and retrieval. In this application, customers will activate "call forwarding" to the Pacific VMS machine. Customers may store a personalized response in the VMS system to greet callers. When incoming callers are connected to the VMS machine, it will give them the option of storing a voice message for the customer. Thereafter, the customer may retrieve the message by calling the VMS machine from a touchtone telephone and entering his or her passcode or personal identification number. The customer may choose to save or erase the contents of the voice mailbox or forward the message to other users on the system.

4. Pacific's voice messaging application allows a customer to call Pacific's VMS equipment directly and leave a message for one or more other VMS customers. In

contrast to telephone answering, in which a caller intends to reach the customer directly rather than a VMS machine, in the voice messaging application, the caller intends to call the VMS machine directly. To use voice messaging, a customer would call the access number of the VMS machine and enter a valid passcode. At that time, the customer would be prompted to send a message, retrieve a message, or complete a variety of other messaging options.

5. In both applications, the customer needs a touchtone telephone and a voice-grade subscriber line between the customer's premise and the serving central office. For both applications, the VMS equipment generates the billing data as it keeps a record by passcode of who uses the system, how the system is used, and for how long. A customer interested in purchasing Pacific's VMS offering can either subscribe to it by contacting a service representative of Pacific or use the service on a "casual" basis through direct interaction with the VMS equipment.[7]

6. The VMS equipment used by Pacific is collocated with, but not physically integrated into, its central office equipment. It is interconnected to the telephone network using existing standard interfaces and tariffed transmission offerings.[8] Incoming and outgoing lines used to originate and complete calls to Pacific's system include Centrex lines, standard measured business lines, Direct Inward Dial (DID) trunks, and 800 service lines. For data lines that pass signal information about the call between the VMS equipment and the network, the signaling interconnection may be furnished through 3002 series analog private lines used in conjunction with Forwarded Call Information to provide certain calling and called number identification and message waiting notification capabilities. In addition to these interconnections, software-supplied services support functions, such as DID and Forwarded Call Information, needed for the VMS offering. Finally, the VMS offering uses certain types of central office hardware- and software-supplied call distribution services that include multi-line hunt groups, automatic call distribution, and uniform call distribution.

IV. COMPLIANCE ISSUES

A. *CEI Requirements*

7. We designed our CEI requirements to give enhanced service providers equal and efficient access to those basic services that AT&T and the BOCs would use in providing their own enhanced services. The *Phase I Recon Order* emphasized that the standard for evaluating CEI compliance is based on "equal access" which will be interpreted in a "reasonable and efficiency- promoting manner".[9] The standard does not require absolute technical equality, but rather seeks to achieve fairness and efficiency for all enhanced service providers competing with a carrier. Factors used to evaluate whether the standard has been met include the absence of systematic differences between basic service access provided to the carrier's enhanced service operations and to others, end-user perception of equality, and utility to other enhanced service providers--that is, whether any technical disparity makes a difference in the ability of competitors to provide their enhanced services.[10]

1. *Proposed CEI Arrangements*

8. Pacific states that, as its fundamental means of providing CEI, it will provide its VMS competitors a selection of access lines for interconnection to the network that are presently available under state tariffs. Pacific states that VMS competitors and customers may choose the lines that best suit their needs. The access lines, which are one-way or two- way, are available under state tariffs at non-distance-sensitive rates within the serving central office territory. According to Pacific, these lines fall into two categories: (1) incoming and outgoing lines used to originate and complete calls to the VMS systems;[11] and (2) data lines that pass signal information about the call to the VMS competitors.[12]

9. In addition to these forms of interconnection, Pacific states that, to support others' VMS services, it will provide competitors with additional central office software-supplied services, such as DID and Forwarded Call Information that are available at tariffed rates. Pacific states that it will also offer competitors certain types of central office hardware-and software-supplied call distribution services under tariff such as multi-line hunt groups, automatic call distribution, and uniform call distribution. Finally, Pacific is currently investigating new basic network services to support the needs of competing VMS providers.

2. *CEI Parameters*

10. The CEI parameters are designed to ensure that the basic services used by a BOC's enhanced service are available to other enhanced service providers in an equally efficient manner. We took care to develop the parameters so that the carriers subject to them could satisfy them in a flexible manner, consonant with the particular services at issue.[13] We discuss specific parameters below.

a. *Interface Functionality*

11. As part of its CEI offering, a BOC must provide standardized hardware and software interfaces that support transmission, switching, and signaling functions identical to those utilized in its own enhanced service offering with information and technical specifications for such interfaces subject to our network information disclosure requirements.[14]

(1) *Positions of the Parties*

12. According to Pacific, the interface functionality of the access lines and other basic services it is offering to competitors for CEI is identical to the functionality its VMS offering will use. ANPA requests clarification whether the 3002 data links mentioned in the Plan will be offered under distance-sensitive tariffs.[15] Pacific replies that its 3002 data channels used to interconnect VMS providers to central office facilities are not currently tariffed on a distance-sensitive basis.[16]

(2) *Discussion*

13. Pacific states in its Plan that its VMS offering will interconnect with the network in the same way and on the same terms and conditions available to all voice mail providers. On this basis, we conclude that Pacific has satisfied this CEI parameter. We accept its clarification that 3002 data channels used to interconnect VMS providers to central office facilities are not tariffed on a distance-sensitive basis.[17]

b. *Unbundling of Basic Services*

14. To satisfy the CEI requirements, the basic services and basic service functions that underlie the carrier's enhanced service offering must be unbundled from other basic service offerings and associated with a specific rate element in the CEI tariff.[18]

(1) *Positions of the Parties*

15. Pacific states that the basic services that support Pacific's VMS offerings are unbundled from other basic service offerings and are associated with a specific rate element in each of their tariffs. Pacific states that it will not use network functions for its VMS services that are not available to all providers in an unbundled tariffed form. Pacific states further that no independent testing period will be required for the basic services used for CEI because they are already available for testing and are in use today by enhanced service providers.[19]

16. ANPA states that while Pacific gives assurance that the underlying basic services to be used for its VMS offering are already unbundled and tariffed, such assurance is important and should be made as specific as possible.[20] ANPA states that it is equally important that determinations about the necessity of unbundling be founded upon well-informed assessments--rather than assumptions--of enhanced service providers' requirements for offering their services.[21]

(2) *Discussion*

17. Although ANPA comments on this issue, it does not state with specificity any deficiency in the Plan that would result in a violation of our unbundling requirement, nor does our review of the Plan disclose any such deficiency. In these circumstances, we find that Pacific has adequately satisfied its unbundling nondiscrimination obligation.

c. *Resale*

18. The *Phase I Order* requires a BOC's enhanced service operations to take the basic services used in its enhanced service offerings at their unbundled tariffed rates as a means of preventing improper cost-shifting to regulated operations and anticompetitive pricing in unregulated markets.[22]

(1) *Positions of the Parties*

19. Pacific states that it will "purchase" CEI elements for its own VMS offering at the same tariffed rates, terms, and conditions as other voice mail providers.[23] ANPA states that the Plan establishes that Pacific intends to pay tariffed rates for each of the underlying basic service offerings and capabilities needed to offer VMS, but adds that "[t]he plan states that intention as a general matter."[24]

(2) *Discussion*

20. By its straightforward statement that it will purchase CEI elements at the same tariffed rates, terms, and conditions as other voice mail providers, we are satisfied that Pacific has submitted a CEI plan that complies with our resale requirement.

d. *Technical Characteristics*

21. The *Phase I Order* requires that, as part of its CEI offering to enhanced service competitors, a BOC must offer basic services with technical characteristics that are equal to those of the basic services it utilizes for its own enhanced services. These characteristics include, but are not limited to: transmission parameters, such as bandwidth and bit rates; quality, such as bit error rate and delay distortions; and reliability, such as mean time between failures.[25]

(1) *Positions of the Parties*

22. Pacific states that the transmission parameters of the basic services used by VMS providers will be governed by transmission standards contained in technical publications. Pacific states further that interconnection to Pacific's VMS offerings and to the offerings of unaffiliated providers will be through standard network interfaces identical to those provided under existing local tariffs and the technical references noted in those tariffs. According to Pacific, analog lines that extend beyond the central office may experience slight signal attenuation in proportion to their length. However, Pacific claims that regardless of distance from the central office, all VMS providers will be able to provide services of comparable quality, as perceived by end users.[26] No party comments on Pacific's treatment of this CEI parameter.

(2) *Discussion*

23. We are satisfied that the Plan affords basic services to its enhanced service competitors equal in terms of technical characteristics to those it utilizes for its own enhanced services. We accept Pacific's Plan as adequately complying with this CEI parameter.

e. *Installation, Maintenance and Repair*

24. The time periods for installation, maintenance, and repair of the basic services and facilities included in a CEI offering must be the same as those the carrier provides to its own enhanced service operations.[27]

(1) *Positions of the Parties*

25. Pacific states that requests for network services will be implemented in accordance with standard installation intervals and that these intervals are available to vendors and the public. At the time an order is placed, customers will be given the date on which their services will be available in accordance with these standard intervals.[28] Similarly, Pacific states that maintenance requests will be resolved in accordance with standard procedures in place today governing the scheduling of maintenance work.[29] Pacific states that trouble reports from VMS providers will be generally received through a repair service bureau where the report would be entered into the Loop Maintenance Operations System (LMOS) in Pacific Bell and the Loop Reporting System (LRS) in Nevada Bell. LMOS and LRS deliver the report to the work group responsible for coordinating repair of the circuit. According to Pacific, trouble reports from the Pacific Companies' circuits will not receive priority treatment over other providers' circuits.[30] No party comments on Pacific's treatment of this CEI parameter.

(2) *Discussion*

26. Pacific's Plan provides for installation, maintenance, and repair of basic services and facilities included in its CEI offering on the same basis as it provides to its own enhanced service operations. We therefore find that the Plan complies with this CEI requirement.

f. *End User Access*

27. If a carrier offers end users the ability to use abbreviated dialing or signalling to activate or access the carrier's enhanced offerings, it must provide, as part of its CEI offering, the same capabilities to end users of all enhanced services that utilize the carrier's facilities. We further stated that end users should have equal opportunities to access basic facilities through derived channels, such as Data-Over-Voice (DOV) offerings, whether they use the enhanced service offerings of the carrier or those of a competitor.[31]

(1) *Positions of the Parties*

28. Pacific states that abbreviated dialing access to all VMS providers will be available to end users who wish to purchase tariffed speed dialing custom calling services. According to Pacific, an end user could purchase such features at the same time it contacts Pacific for VMS. Pacific states that other VMS providers can offer similar "one call" service if they receive customer authorization to order these services from Pacific on the customer's behalf.[32] No party comments on Pacific's treatment of this CEI parameter.

(2) *Discussion*

29. The Plan adequately addresses this CEI parameter by making abbreviated dialing or signaling available to end-users of all enhanced services that utilize Pacific's facilities.

g. *CEI Availability*

30. A carrier's CEI offering must be fully operational and available on the date that it offers its corresponding enhanced service to the public. In addition, the carrier must specify a reasonable time prior to this date during which prospective users of CEI, such as enhanced service competitors, can utilize the CEI facilities and services for purposes of testing their enhanced service offerings.[33]

(1) *Positions of the Parties*

31. Pacific states that its CEI offering is fully operational at present and will be available to VMS providers. Pacific states further that all CEI elements in the Plan are presently available for testing and use today. Pacific claims that while its CEI services are not available through its service areas, it meets our CEI requirements with respect to geographic availability of CEI because Pacific will not have access to the switch functionalities necessary for VMS in places where other VMS providers cannot order CEI services.[34] No party commenting on the Plan addresses this parameter.

(2) *Discussion*

32. The Plan satisfies this requirement. By making CEI available to competitors in those areas in which Pacific will compete, and not using the switch functionalities necessary for VMS in those areas where other VMS providers cannot order CEI services, the Plan complies with our parameter for CEI availability.

h. *Minimization of Transport Costs*

33. In the *Phase I Order*, we recognized that carriers may reduce or eliminate certain equipment and transmission costs by collocating or integrating enhanced services facilities with their basic network facilities. While we did not impose mandatory collocation requirements on carriers subject to CEI, we did require such carriers to provide others with interconnection facilities that minimize such tranmission costs. We required that carriers demonstrate in their CEI plans what steps they would take to reduce transmission costs for competitors. We further directed such carriers to develop techniques to minimize such costs.[35] We clarified in the *Phase I Recon Order* that while the requirement that transmission costs be minimized focuses on technological methods rather than pricing, we do not require a CEI offering that is substantially identical to existing services to be priced lower than those services simply for CEI purposes. Instead, we encourage the use of existing basic services in CEI in order to expedite initial CEI development.[36] In the *Phase II Recon Order*, we clarified that a carrier may satisfy this CEI requirement if it charges itself an access link rate that is the same as that paid by non-collocated enhanced service providers, provided that the access connections in each case are equivalent in technical quality.[37]

(1) *Positions of the Parties*

34. Pacific states that its VMS offering will interconnect with the network in the same way and on the same terms and conditions that are available to all VMS providers.[38] Telenet states that, as it understands the CEI proposal advanced by Pacific, Pacific will charge itself and non-collocated competitors the same tariffed rates for central office interconnections. Telenet observes that Pacific thus sacrifices certain efficiencies in the Plan since it gives no recognition to cost reductions in furnishing dial access to its own collocated enhanced service or to competitors located near the central office. Telenet claims that while foregone savings are deemed by Pacific to be insignificant in the present proceeding, this may not always be the case and we should therefore adopt an "equal pricing" policy. Under an equal pricing policy, a BOC would have the discretion to offer either "actual central office collocation" to enhanced service competitors, or "virtual collocation".[39] Pacific replies that Telenet has not specifically described any deviation by Pacific in meeting the CEI requirements and that the Plan should therefore be approved.[40] Pacific also states that it will study new interconnection arrangements in the future that would be fair and would allow even greater efficiencies to be realized than presently available.[41]

(2) *Discussion*

35. We conclude that Pacific has complied with this CEI parameter. Since Pacific will charge itself the same tariffed rates as it charges all other VMS providers, it achieves the procompetitive goals of the requirement for minimization of transmission costs and promotes efficient and nondiscriminatory utilization of the network. As explained in the *Phase II Recon Order*, this requirement is designed to reduce transmission cost differences between collocated BOC enhanced service operations and noncollocated enhanced service providers. When such differences do not exist, no action is required to further minimize transmission costs.[42]

i. *Recipients of CEI*

36. In the *Phase I Order*, we stated that carriers should not restrict the availability of CEI to any particular class of customer or enhanced service competitor.[43] In the

Phase I Recon Order, we clarified that customer or use restrictions for state-tariffed basic services were permissible, but we required carriers to provide an explanation of, and justification for, any such state-tariffed restrictions in their CEI plans.[44]

(1) *Positions of the Parties*

37. In its Plan, Pacific states that while it does not and cannot restrict the availability of CEI to any particular class of customer or enhanced service provider in any interstate tariff, CEI services may be furnished pursuant to state tariffs containing customer and use restrictions which we have expressly permitted. Pacific notes that while some of the services it provides are subject to state tariffs with customer or use restrictions, none of the state tariffs limit their availability to voice mail providers.[45] No party commenting on the Plan addresses this parameter.

(2) *Discussion*

38. While Pacific concedes that some of the basic services included in its CEI offering have customer or use restrictions, it explains that these restrictions appear in existing state tariffs for intrastate services. Pacific notes correctly that, in order to expedite the filing of CEI plans, we have encouraged the utilization of existing basic services to meet CEI requirements.[46] Pacific also states that none of the state tariffs restrict VMS providers from obtaining the CEI services described in the Plan. Moreover, our inspection of the tariff pages included with the Plan shows that such restrictions appear generally designed only to prevent technical impairment of the public switched network[47] or to prohibit customers from reselling the BOC-provided basic service as a common carrier offering.[48] Such restrictions should have no detrimental effect on Pacific's VMS competitors.[49] In these circumstances, we conclude that Pacific has satisfied this CEI requirement.

3. *CEI Pricing*

39. In the *Phase I Order*, we established a set of pricing requirements for CEI that permit, but do not require, charges for distance- sensitive transmission to be cost-based.[50] We stated that mandatory price averaging could be inappropriate for the distance-sensitive costs of the dedicated transmission facilities because such costs are specific to particular competitors and averaging could cause economic distortions.[51] We also required carriers to include an averaged Basic Interconnection Charge and an averaged Basic Concentration Charge in their CEI tariffs, and stated that standard tariffed rates should apply to preexisting, conventional network services that enhanced service providers may use in conjunction with certain offerings. In the *Phase I Recon Order*, we expressly declined to alter this CEI pricing framework. Moreover, we stated that we would not require a CEI service offering that is substantially identical to an existing service to be priced lower than that service simply for CEI purposes.[52] Finally, we emphasized that the use of existing basic services as components of CEI was not only permissible, but encouraged, as a means of expediting initial CEI deployment. In the *Phase I Further Recon Order*, adopted today, we have declined to modify our CEI pricing requirements or mandate that distance- sensitive transmission functions be priced differently for CEI purposes than the same or substantially identical functions are priced in generally applicable interstate tariffs.[53]

40. We emphasized in the *Phase I Recon Order* that we were not preempting the states from establishing rates or general terms, conditions, or methods of regulation for particular intrastate CEI offerings or BSEs. However, we held that, if a state imposes terms or conditions on a carrier's intrastate CEI offerings or BSEs that are inconsistent with our CEI pricing requirements, the carrier must obtain a waiver of those requirements from us before it introduces an enhanced service that makes use of the basic services at issue.[54] In the *Phase I Further Recon Order*, we have retained this requirement, stating that we viewed the waiver procedure as a demonstration of our willingness to be flexible in the face of potential conflicts with state authority in the enforcement of our rules.

a. *Positions of the Parties*

41. Pacific states that transmission and signaling between its network and VMS offering will be provided through lines that are available at tariffed rates today.[55] It states that these access lines are tariffed at non-mileage-sensitive rates within the serving central office territory. This arrangement does not offer any cost advantage to Pacific, which may collocate its VMS equipment.[56] If a VMS provider chooses to locate outside the exchange area served by the central office to which it wishes to interconnect, says Pacific, it may use FX service to complete the access link. Pacific contends that the distance-sensitive charges applied to FX service do not give Pacific any inherent price advantage over its competitors.[57] It adds that other interconnection costs will be priced equally for affiliated and unaffiliated VMS providers.[58]

42. ANPA urges that Pacific clarify the nature of its data signalling links and any other underlying services that might prove to be distance sensitive.[59] It further argues that Pacific should be required to file in advance with this Commission any proposed changes in intrastate tariffs that might unfairly affect unaffiliated enhanced service providers.[60]

43. California contends that the Plan presents a favorable contrast to Bell Atlantic's original CEI plan, stating that in its view Pacific's pricing of transmission facilities does not discriminate against competitors.[61] Telenet also notes that "the Pacific Companies will not charge themselves only for 'short-wire' interconnections to their VMS equipment collocated in their central offices, as Bell Atlantic had originally proposed in its March 6, 1987 CEI Plan for voice storage services, but will charge themselves the same tariffed rates for such central office interconnections as non-collocated competitors will be charged -- as Bell Atlantic subsequently proposed in its June 15, 1987 Reply."[62]

44. Addressing ANPA's expression of concern over the pricing of data transmission links, Pacific states that its data channels used to interconnect VMS providers to central office facilities are not currently tariffed on a distance-sensitive basis.[63] Pacific disagrees with ANPA's suggestion that it be required to seek review from this Commission before making changes in intrastate tariffs. Since ANPA has not raised any objection to the current tariffed rates provided in the tariffs attached to the Plan, says Pacific, we should approve the Plan without regard to any hypothetical future changes in rates that might occur.[64]

b. *Discussion*

45. Pacific's tariffs for its CEI offerings satisfy our CEI requirements. While our rules permit Pacific to price all of its CEI transmission elements on a distance-sensitive basis, Pacific's choice -- to price its transmission elements on an averaged basis within the territory served by each central office -- is fully consistent with those rules.[65]

3. *Other Nonstructural Safeguards*

a. *Allocation of Joint and Common Costs*

46. In the *Joint Cost Order*, we adopted rules for the allocation of costs between regulated and unregulated services provided by carriers subject to our jurisdiction. In the *Phase II Order*, we required as part of their CEI requirements that AT&T and the BOCs comply with those rules.[66] Pacific states that its cost allocation procedures for VMS will be consistent with the cost manual that it has submitted to this Commission pursuant to the *Joint Cost Order*. [67] The Common Carrier Bureau (the Bureau), acting on delegated authority, has conditionally approved Pacific's cost manual.[68] Thus, Pacific has complied with this CEI parameter.

b. *Customer Proprietary Network Information*

47. In the *Phase II Order*, we adopted CPNI requirements for the enhanced services operations of AT&T and the BOCs that require them to (1) make CPNI available, upon customer request, to unaffiliated enhanced service vendors on the same terms and conditions that are available to their own enhanced services personnel; (2) limit their enhanced services personnel from accessing a customer's CPNI, if the customer so requests; and (3) notify multiline business customers annually of their CPNI rights. We also required the BOCs, but not AT&T, to provide to unaffiliated enhanced service vendors any nonproprietary, aggregate CPNI that the BOCs provide to their own enhanced services personnel. This information must be provided to unaffiliated vendors on the same terms and conditions that are available to the BOCs' own enhanced service operations.[69]

48. In the *Phase II Recon Order*, adopted today, we have declined to require that the BOCs' enhanced service personnel be denied access to CPNI absent prior authorization from customers. We have required the BOCs to amend their ONA plans by March 10, 1988, to describe the types of information that they will treat as CPNI. In their ONA plan amendments, the BOCs must describe, among other things, the CPNI of various types of enhanced service providers that they will restrict pursuant to requests for confidentiality from those providers. We also have adopted several requirements to increase customers ability to limit access to their CPNI. First, each CPNI notice from a BOC to its multiline business customers must include a response form that customers may use to inform the carrier of their preferred CPNI treatment. Second, the BOCs must treat a customer's choice to restrict release of its CPNI as effective until the customer specifically chooses otherwise. Third, customers may restrict BOC access to some or all of their CPNI for specific time periods or for specific purposes. Fourth, the BOCs must honor customer requests for restricted treatment of CPNI that are sent before the carriers send notices of CPNI rights. Fifth, the BOCs must include copies of their proposed notification of CPNI rights and response forms with their ONA plans. We delegated authority to the Bureau to review these materials to ensure that customers receive a fair and complete notice of their CPNI rights and options. We also declined to relieve the BOCs of the requirement that they make nonproprietary, aggregate CPNI available to unaffiliated enhanced service providers, and we denied requests that we subject AT&T to the same requirement.[70]

(1) *Positions of the Parties*

49. The Plan provides that, when requested by a customer, Pacific will not allow access to that customer's records by the Pacific personnel who market enhanced services. Pacific states that it will furnish CPNI to the enhanced service providers designated by a customer. It states generally that Pacific will notify multiline business customers of their right to restrict access to CPNI and will inform its employees of their CPNI responsibilities.[71]

50. ANPA states that, under the Plan and our current rules, there is considerable anticompetitive potential in permitting Pacific to access freely individual customer information, and that this situation would be compounded if Pacific begins providing billing services to competing enhanced service providers.[72]

51. ATSI argues that access to CPNI provides an insurmountable competitive advantage to a vendor of voice messaging services, providing it with critical insights into basic telecommunications usage that in turn can facilitate a provider's design of marketing tactics and presentation of service arrangements.[73] Such CPNI, it claims, would allow VMS vendors to identify a potential new customer in a market by its subscription to basic telecommunications services.[74] While the BOCs have immediate knowledge of a new potential VMS customer's existence when telephone service is ordered, ATSI's members must seek to identify new customers in their service areas through such indirect means as building license records, local Chamber of Commerce membership lists, and trade and business association membership lists.[75] Furthermore, ATSI asserts, the BOCs may consult a subscriber's record of telephone service bill payment to assess its creditworthiness, but its members must pay credit bureaus to verify the credit history of new customers.[76] For ATSI's members, it adds, one of the most substantial sources of delay in marketing services is identification of the appropriate person responsible for deciding whether to subscribe to VMS offerings, but in most cases the a BOC will know immediately who this contact person is, because it will know who ordered basic telephone services.[77] The BOC can determine how many times a customer's telephone has rung and not been answered. ATSI says this information can be an important marketing tool that is not available to its members.[78] Similarly, argues ATSI, the BOC will be able to identify the extent to which a subscriber used features such as call forwarding and call waiting, which might suggest receptiveness to the use of VMS.[79] ATSI claims that its members can take only limited steps to protect sensitive and proprietary information about their operations from their serving telephone companies' VMS affiliates, because critical information on unaffiliated VMS operations is associated with the CPNI of end users.[80] ATSI expresses concern that Pacific's VMS operations might be linked directly to its basic services' CPNI databases for subscriber verification and billing purposes. ATSI argues that this kind of integrated database would be discriminatory and at odds with our CPNI requirements unless unaffiliated VMS competitors can obtain the same kind of access to that information.[81] ATSI also complains that the Plan does not contain information about

the time frame in which CPNI will be made available to unaffiliated vendors and that it has not described the format that Pacific will use for providing such information, *i. e.*, whether it will be hard copy, machine-readable, or some form of direct access to the relevant database.[82] Finally, ATSI requests that we clarify that we do not intend to preempt state regulatory agencies from acting to prevent anticompetitive consequences associated with preferential BOC access to CPNI.[83]

52. ESPA emphasizes tne importance of equal access to customer proprietary voice messaging needs and states that Pacific will gain immense marketing presence and visibility from its unique access to CPNI gained through its provision of basic service.[84]

53. California concedes that Pacific's treatment of CPNI conforms to our rules, but argues that those rules give Pacific's marketing personnel a clear competitive advantage over unaffiliated enhanced service providers. California states that access to CPNI should be on the same term and conditions for all VMS providers, including the BOCs, and that access to a customer's CPNI should be presumed restricted unless the customer notifies Pacific in writing to the contrary.[85]

54. Pacific replies that, to the extent that comments directed to its CPNI provisions do not dispute the fact that the Plan meets the *Computer III* requirements and conforms to our rules, they are in fact untimely petitions for reconsideration and should be disregarded.[86]

(2) *Discussion*

55. In the *Phase II Recon Order*, we have thoroughly reviewed the pro-efficiency benefits of our CPNI requirements, and have declined to require that the BOCs obtain prior authorization from customers before releasing CPNI to their affiliated enhanced service providers. Accordingly, Pacific is correct that attacks on these CPNI requirements amount to untimely petitions for reconsideration and are not appropriately raised in this proceeding, which is concerned with Pacific's implementation of those requirements in its CEI Plan.[87] However, in the *Phase II Recon Order*, we have adopted additional requirements to make it easier and more convenient for customers to restrict BOC access to their CPNI. This Plan does not reflect these additional requirements. Therefore, we condition our approval of the Plan on Pacific's conformance with them. By March 21, 1988, Pacific must amend the Plan to bring it into conformance with the CPNI requirements of the *Phase II Further Recon Order*. [88] Conforming the Plan to our present CPNI requirements will protect the interests both of Pacific's basic service customers and of competitors of the Pacific VMS offering.

c. *Nondiscrimination Reporting*

56. In the *Phase II Order*, we required that, as part of their CEI obligations, AT&T and the BOCs must file quarterly nondiscrimination reports that provide comparative data on the timing of installation and maintenance, as well as the quality and reliability, of the basic services offered as part of any CEI tariff.[89] In the *Phase II Recon Order*, we have eliminated the requirement that AT&T submit reports on the quality of the basic services, included in its CEI offerings, provided that it (1) amends its ONA plan to include a detailed description of its installation procedures that demonstrates its inability to engage in quality-based discrimination, and (2) submits an annual affidavit attesting that it has followed the installation procedures described in its ONA plan amendments and that it has not, in fact, discriminated in the quality of network services used by competing enhanced service providers. We concluded that the BOCs should be afforded the same opportunity to demonstrate that their procedures preclude such discrimination. If they can do so, the BOCs will also be relieved of the quality reporting requirement, subject to the same conditions applicable to AT&T.[90]

57. In the *Phase II Recon Order*, we have also denied AT&T's request for permission to file installation and maintenance data only for its own enhanced service operations, but we have modified our requirements to permit AT&T to file reports comparing installation and maintenance intervals provided to its own enhanced service operations with those provided to a sampling of all customers. While we have not similarly modified the BOCs' installation and maintenance reporting requirement, we have delegated authority to do so to the Bureau, contingent on each BOC amending its ONA plan to include a detailed description of its installation and maintenance procedures that demonstrates that it lacks the ability to discriminate.

(1) *Positions of the Parties*

58. In the Plan, Pacific proposes to submit quarterly reports (1) describing the installation due date performance and maintenance repair intervals provided by Pacific,[91] (2) comparing the total number of trouble reports and mean time to repair reported troubles for Pacific VMS and other VMS companies.[92]

59. ANPA maintains that the Plan does not comply fully with our requirements in that its reporting is limited to repair activity and not ongoing maintenance. ANPA further states that the Plan may need to delineate the service categories in light of our requirement that "reports should be provided on each type of basic service" used for CEI.[93]

60. In its reply, Pacific states that it does not perform inspection and maintenance of the kinds of circuits that it will be offering as CEI network functionalities, except as part of the repair process performed in response to trouble reports. On that basis Pacific contends that ongoing maintenance is a matter that cannot be quantified.[94]

(2) *Discussion*

61. Pursuant to the *Phase II Recon Order*, if Pacific amends its ONA plan to demonstrate that its BSE provisioning procedures preclude discrimination against unaffiliated enhanced service providers, this Commission will permit it to comply with the modifications of the nondiscriminiation requirements described in that order. Until then, however, Pacific remains subject to our requirement that it provide quarterly reports comparing (1) the timing of installation and maintenance, and (2) the quality and reliability of the basic services offered as part of any CEI tariff.[95] The Plan meets the first of those requirements, but our quality reporting requirement cannot be satisfied merely by tabulating the total number of trouble reports received from Pacific's VMS operations as compared with other VMS companies. We require substantially more detailed quality and reliability reports than Pacific proposes in the Plan.[96] Thus, we condition approval of the Plan on Pacific obtaining approval of either (a) amendments to its ONA plan in the manner indicated above so that it will

not be subject to this reporting requirement; or (b) amendments to its Plan that include more detail in its quality and reliability reports.

d. *Network Information Disclosure*

62. The *Phase II Order* required AT&T and the BOCs to disclose information about network changes or new network services that affect the interconnection of enhanced services with the network at two points in time.[97] First, a carrier must disclose such information at the "make/buy" point -- that is, when the carrier decides to make itself, or to procure from an unaffiliated entity, any product the design of which affects or relies on the network interface. We permitted AT&T and the BOCs to condition "make/buy disclosure of technical network information on the signing of a nondisclosure aggreement and to provide the required network information within 30 days of the execution of such an agreement. Second, we required AT&T and the BOCs to release publicly all technical information at least twelve months prior to the introduction of the new service or network change that affects enhanced service interconection with the network. However, if a carrier is able to introduce the service between six and twelve months after the make/buy point, public disclosure is permitted at the make/buy point, but no less than six months before the introduction of the service. We declined to modify those requirements in the *PhaseII Recon Order*. [98]

(1) *Positions of the Parties*

63. Pacific asserts that no changes to any of its existing interconnection specifications are required in order to provide service to VMS providers. Accordingly, it claims that no network disclosure obligations apply to its offering and that it may commence the furnishing of VMS upon receipt of appropriate regulatory and legal approvals.[99] Noting that network disclosure obligations may arise in the future as a result of modifications to its CEI Plan, Pacific states that it will describe the means it will use to meet our network information disclosure requirements when it notifies us of pending CEI modifications.[100] No other parties comment on this aspect of the Plan.

(2) *Discussion*

64. We agree with Pacific's argument that it is not required at this time to disclose information about network changes or new network services in connection with its proposed voice messaging service. Our acceptance of the Plan is conditioned on Pacific's disclosing such information in the future whenever that is required by our rules.

B. *General*

1. *Competitive Fairness*

a. *Positions of the Parties*

65. Certain commenters on the Plan express concern that Pacific, as a regulated monopoly provider of local phone service, might enjoy certain inherent advantages in the VMS business that it could exploit to the detriment of its competitors. These parties urge us to consider both the terms of specific CEI parameters and these alleged inherent competitive advantages exercised by Pacific and the other BOCs.

66. ESPA, for example, states that the Plan does not address how Pacific will fairly balance the competitive advantage of being able to solicit customers for voice mail at the time they order phone service or call in to make changes in regular phone service.[101] ESPA suggests that to balance this inherent marketing advantage, Pacific should modify the Plan to include procedures by which its operating companies, when informing regular phone customers about their VMS offerings, would also inform those customers about other VMS providers. ESPA states that Pacific should be required to include competitor's phone numbers and addresses in their regular monthly bills if Pacific's operating companies include their own voice mail brochures in such bills. ESPA asserts that we have imposed such requirements in the past "to neutralize a BOC's natural marketing advantage".[102] ESPA also claims that permitting the introduction of CEI without adequately resolving the issues posed by Pacific's inherent competitive advantage may delay or preclude the development of a truly open network and slow the pace of innovation.[103]

67. In its reply, Pacific states that the additional requirements proposed by ESPA are inappropriate because competition in the enhanced service marketplace is sufficient to assure fairness.[104] Pacific states further that there is no Commission precedent for ESPA's claim that Pacific be required to inform customers of the existence of other VMS providers when customers contact service representatives of Pacific. Pacific argues that ESPA's reliance on the former *Computer II* rules governing customer premises equipment (CPE) for the proposition that referrals to affiliates require referrals to non-affiliates is incorrect. According to Pacific, the former *Computer II* CPE rules established no such requirement. Pacific says the *Computer II* rule merely required a BOC to disclose that CPE was available from a variety of sources before it could refer customers to an affiliate.[105] Pacific contends that there is no such referral requirement for the unseparated provision of CPE in the *BOC CPE Structural Relief Order* [106] or for the unseparated provision of enhanced services in *Computer III*. Pacific argues that the Commission found that the competitive nature of the marketplace for CPE and enhanced services obviates any need for BOCs to provide free marketing services to other VMS providers.

68. In a related vein, ANPA states that the Plan should be approved on a trial basis in order to determine whether, as implemented, it furthers competitive fairness in the enhanced services marketplace.[107] BellSouth contends that any approval of the Plan should be on a permanent, not trial basis, since piecemeal approval would create unwarranted delay and constitute an additional requirement beyond the scope of our requirements.[108] Finally, Amvox states that Pacific's request to enter the enhanced services business on an unregulated basis should be refused until this Commission formulates a set of controls that has the effect of convincing a new entrant into the information services business that its investment is protected from predatory activities of established monopoly interests.[109]

69. Octel and SWBT argue that the Plan does not confer an unfair advantage on Pacific, stating generally that the Plan meets our requirements and would serve the public interest by encouraging competition in the VMS marketplace.[110] Octel states that Plan approval would also encourage American industry to invest in research and development of voice-related information services. Such

investment eventually allows wider dissemination of such services to the consuming public. SWBT states that while it might not approach the development of a CEI plan in the same fashion as did Pacific, it supports the Plan and urges approval.

b. *Discussion*

70. The issue before us in reviewing the Plan is whether it meets the CEI requirements of *Computer III*. Parties that seek modifications of these requirements or of our substantive policies should not do so in compliance proceedings such as this, but through timely petitions for reconsideration or petitions for Rule Making. The CEI requirements are designed to promote competition in enhanced service markets by preventing various forms of potential anticompetitive conduct by the BOCs, while not unduly handicapping legitimate, competitive efforts by these carriers in bringing servces to the American people. In the various orders in the *Computer III* proceeding, we have sought to strike a balance between these two important goals. We do not think the public interest would be well served by relitigating these issues each time a CEI plan is filed. Since ESPA criticizes the Plan on the basis of a purported marketing advantage for Pacific, rather than on the basis of any alleged failure to comply with the terms of our CEI requirements, we reject its comments as a basis for disapproving the Plan. Based on the record compiled in this proceeding, we find that, with the modifications required in this order, the Plan will satisfy our requirements. We further decline ANPA's suggestion to approve the Plan only on a trial basis. In our view, no purpose would be served by a "trial" approval of Pacific's Plan since, after amendment to conform to our current nonstructural safeguards, Pacific will have complied with our requirements.

2. *Interstate Access*

a. *Positions of the Parties*

71. ATSI argues that Pacific is proposing to make CEI services available only pursuant to state tariffs, and that no federal tariffs or offerings of basic services needed for voice messaging services apparently are contemplated by Pacific. ATSI states that its members offer VMS-type services on both an interstate and intrastate basis and that, accordingly, they need access to interstate based CEI services. It argues that there appears to be no justification for Pacific to refuse to provide CEI services to be used in interstate VMS offerings.[111] ATSI construes the Plan as failing to offer CEI services that can be used in interstate VMS offerings.[112]

72. Pacific replies that the Plan does not restrict in any way the ability of VMS providers to purchase any and all access services they desire, and it asserts that VMS providers are generally free to order any access arrangements from Pacific that they desire. However, says Pacific, our CEI requirements are designed to ensure only that the access utilized by the enhanced service operations of a BOC is equivalent to that provided to other enhanced service providers.[113] Pacific states that it has not included interexchange access services in its CEI plan because its own VMS offering will not use such services. Pacific interprets the *Modified Final Judgment* (*MFJ*) as preventing it from providing any interexchange services, including interexchange VMS, and it states that exchange access is not needed except for the purpose of terminating and originating interexchange messages.[114]

b. *Discussion*

73. While we agree with ATSI that, under ONA, Pacific should not be allowed to confine its BSE offerings only to those used by its own enhanced service operations, we do not require the carriers to include such additional offerings in their CEI plans, which provide interim equal access arrangements prior to the implementation of ONA. As indicated above, AT&T and the BOCs are instead required to offer such additional BSEs in their ONA plans. Parties will be allowed to comment on those plans before we issue any orders concerning them. Furthermore, it does not appear from the Plan that VMS providers will be unable to obtain whatever types of interstate access they need to offer interstate services.[115]

3. *Modified Final Judgement*

a. *Positions of the Parties*

74. AT&T raises the issue of whether the Plan violates the *MFJ* and states that any action on the Plan should be conditional on receipt by Pacific of permission from the MFJ court to offer VMS.[116] Pacific states in the Plan that it is prepared to seek permission from the Department of Justice and the court that administers the *MFJ* if necessary, to offer its services upon our approval of the Plan.[117]

b. *Discussion*

75. The restrictions in the *MFJ* on the provision of information services by the BOCs does not restrict us from independently evaluating the Plan for compliance with our own regulations. While Pacific may ultimately be required to obtain a waiver from the MFJ court to offer VMS, we need not await the court's determination to review the Plan for compliance with our requirements.

C. *Billing*

1. *Positions of the Parties*

76. Pacific states that, in addition to the services that it plans to provide pursuant to the Plan, it is considering the possibility of offering one or more of three billing options to support its own and other providers' VMS offerings. First, it might provide billing for its own VMS offering, with costs allocated in accordance with the *Joint Cost Order*. [118] Second, Pacific may offer a state-tariffed billing service to unaffiliated VMS providers. It represents that the VMS industry has expressed interest in such an offering, particularly to serve the residential, small business, or casual user end of the market. Third, Pacific may choose to use an outside agency to bill for its VMS offerings if that proves to be the most cost-effective alternative.[119]

77. ESPA states that there are few, if any, effective alternatives to having the BOCs perform billing for unaffiliated enhanced service providers because only a few firms nationwide can begin to provide recurring billing service of the requisite magnitude. ESPA argues that the BOCs' ability to bill internally for their own enhanced services will provide them with a significant competitive advantage.[120] While ESPA acknowledges Pacific's statement that it will follow the guidelines of the *Joint Cost Order* to allocate the costs associated with VMS billing, it

expresses concern that there may be a disparity between the costs Pacific will charge unaffiliated enhanced service providers versus Pacific's internal costs allocated to unregulated activities under the *Joint Cost Order*. [121]

78. Pacific replies that the provision of billing services is not mandated by any of the *Computer III* decisions. It argues that the scope of CEI network functionalities and ONA basic service elements includes only basic services required for transmission and switching. Pacific states that it is assessing the possibility of performing billing for unaffiliated VMS providers because some of them have expressed interest in such a service and because it is committed to responding to industry needs.[122]

2. ***Discussion***

79. ESPA does not state what remedy it seeks, although it appears that ESPA wants this Commission to regulate the rates charged by the BOCs for any billing services that they offer to unaffiliated enhanced service providers. We have not heretofore addressed the substantive merits of such a policy, and a CEI plan review is not the proper vehicle for doing so. If ESPA seeks such a remedy, it should submit a petition for Rule Making. We shall not prejudge the merits of any such proposal in this Order, but we note that this Commission has detariffed billing services performed by local exchange carriers for interstate interexchange common carriers.[123]

80. We note further, however, that for the VMS service described in the Plan, Pacific has not yet stated what billing option it will pursue.[124] Accordingly, as a condition of approval of the Plan, we require Pacific to file with this Commission, on or before March 21, 1988, a description of the manner in which it plans to provide billing for its VMS service. Pacific should also specify the billing arrangements, if any, that will be available to providers of competing services.

V. JURISDICTION

A. ***Positions of the Parties***

81. California challenges our authority to consider and rule upon a request by a carrier to provide an intrastate communications service, claiming that Section 2(b) of the Communications Act[125] denies federal jurisdiction with respect to the charges, classifications, practices, services, facilities or regulations for or in connection with intrastate communication service by wire provided by a carrier.[126] California notes that, as a party to *Computer III*, it filed a petition seeking reconsideration of the assertion in the *Phase I Order* of federal preemptive authority over state regulation of intrastate enhanced services offered by a carrier; that we subsequently denied its petition; and that it filed a petition for review in the United States Court of Appeals for the Ninth Circuit. That case is now pending. California states that the basis for its opposition in this proceeding is the same as that in its petition for reconsideration but that, pending final disposition of its judicial appeal, it is compelled to challenge our assertion of authority to preempt it from determining the terms and conditions under which a carrier operating within the State of California may provide a given enhanced service.[127]

B. ***Discussion***

82. We have fully explained the basis for our preemption of state authority over enhanced services in the *Phase I Order* [128] and the *Phase I Recon. Order*. "[129] We do not modify that preemption in this Order. While California disagrees with our decision to preempt in this area, its recourse, as it recognizes, is to seek judicial review, which it is pursuing. California's objections do not provide a basis for rejecting the Pacific Plan.

VI. ORDERING CLAUSES

83. IT IS HEREBY ORDERED, that pursuant to Sections 1, 4(i) and (j), 201, 202, 203, 205, 218, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and (j), 201, 202, 203, 205, 218, and 405, and 5 U.S.C. § 553, Pacific's CEI Plan for VMS IS APPROVED, subject to the conditions described herein.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

APPENDIX A

PARTY FILING CEI PLAN
Pacific Bell and Nevada Bell (Pacific)

PARTIES FILING COMMENTS
American Newspaper Publishers Association (ANPA)
American Telephone Telegraph Company (AT&T)
Association of Telemessaging Services International, Inc. (ATSI)
Enhanced Services Providers Association (ESPA)
Integrated Technology, Inc. (ITI)
Octel Communications Corporation (Octel)
People of the State of California and the Public Utilities Commission of the State of California (California)
Southwestern Bell Telephone Company (SWBT)
Telenet Communications Corporation (Telenet)

PARTY FILING OPPOSITION
California

PARTIES FILING REPLY COMMENTS
API Alarm Systems and Wells Fargo Alarm Services (API/Wells Fargo)
ATSI
BellSouth Corporation, South Central Bell Telephone Company and Southern Bell Telephone and Telegraph Company (BellSouth)
Pacific

FOOTNOTES

[1] Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), *Report and Order*, 104 FCC 2d 958 (1986) (*Phase I Order*), *modified on reconsideration*, 2 FCC Rcd 3035 (1987)(*Phase I Recon Order*), *aff'd on further reconsideration*, FCC 88-9 (released Feb. 18, 1988)(*Phase I Further Recon Order*). *See also Report and Order*, 2 FCC Rcd 3072 (*Phase II Order*), *modified on reconsideration*, FCC 88-10 (released Feb. 18, 1988)(*Phase II Recon Order*).

[2] If Pacific desires to offer VMS or CEI for VMS under any conditions other than those approved in this order, it must either amend the Plan or file a new one.

[3] We also required AT&T to file a modified ONA plan that differs in certain respects from the plans required of the BOCs. *See Phase I Recon Order*, 2 FCC Rcd at 3042, para. 49.

[4] *Phase I Order*, 104 FCC 2d at 1020, para. 115. AT&T and the BOCs also must satisfy the cost allocation requirements of our *Joint Cost Order*, which established compliance filing requirements that are separate from the CEI requirements. *See Joint Cost Order*, 2 FCC Rcd 1298 (1987), *modified on recon.*, 2 FCC Rcd 6283 (1987) (*Joint Cost Recon Order*).

[5] *Phase I Order*, 104 FCC 2d at 1036, para. 147. at 1036, para. 147.

[6] *Id.* at 1039-1043, paras. 154-165.

[7] Plan at 2-8.

[8] *Id.*

[9] *Phase I Recon Order*, 2 FCC Rcd at 3048, para. 92.

[10] *Id.* at 3048, para. 92.

[11] Examples of the access connections in this category include Centrex lines, standard measured business lines, direct inward dial trunks, Foreign Exchange (FX) service, and 800 service lines.

[12] These interconnection arrangements in the second category may be furnished through 3002 series analog private lines used in conjunction with Forwarded Call Information service to provide certain calling and called number identification and message waiting notification capabilities. Plan at 10-11.

[13] *Phase I Order*, 104 FCC 2d at 1039-1043, paras. 154-165.

[14] *Id.* at 1039, para. 157.

[15] ANPA Comments at 3.

[16] Pacific Reply at 12.

[17] If this situation changes, we require Pacific to notify us of the nature of the new tariffs for these data channels.

[18] *Phase I Order*, 104 FCC 2d at 1040, para. 158.

[19] Plan at 14.

[20] ANPA Comments at 3.

[21] *Id.* at 4.

[22] *Phase I Order*, 104 FCC 2d at 1040, para. 159.

[23] Plan at 15.

[24] ANPA Comments at 4.

[25] *Phase I Order*, 104 FCC 2d at 1041, para. 160.

[26] Plan at 15-16.

[27] *Phase I Order*, 104 FCC 2d at 1041, para. 161.

[28] Plan at 16-17.

[29] *Id.* at 17-18.

[30] *Id.*

[31] *Phase I Order*, 104 FCC 2d at 1041, para. 162.

[32] Plan at 19.

[33] *Phase I Order*, 104 FCC 2d 1041, para. 163.

[34] Plan at 19-20.

[35] *Phase I Order*, 104 FCC 2d at 1042, para. 164.

[36] *Phase I Recon Order*, 2 FCC Rcd at 3068, n. 261.

[37] *Phase II Recon Order* at para. 34.

[38] Plan at 9-10.

[39] "Virtual collocation" would allow a BOC to apply its existing tariffed rates for basic access services furnished to its own enhanced service as well as to those of its competitors, or to adopt a "banded" rate structure that gives recognition to efficiencies achieved in providing access to competitors located near the BOC central office. Telenet Comments at 2. According to Telenet, an equal pricing policy should apply to any enhanced service offered by a BOC and not be limited to the VMS offering at issue. *Id.* at 7-10.

[40] Pacific Reply at 12 n. 20.

[41] *Id.*

[42] In an ONA environment, enhanced service providers may request efficient forms of interconnection and transmission to serve their particular needs, which BOCs should provide, subject to the general criteria we have established for implementing BSEs.

[43] *Phase I Order*, 104 FCC 2d at 1042, para. 165.

[44] *Phase I Recon Order*, 2 FCC Rcd at 3051, para. 111, *aff' d*, *Phase I Further Recon Order* at paras. 63-77.

[44] Plan at 21.

[45] *Phase I Recon Order*, 2 FCC Rcd at 3068, n. 261.

[46] *See, e. g.*, Schedule Cal. P.U.C. No. A7 (Wide Area Telecommunications Service), 1st Revised Sheet 13.1, Sec. 7.1.2.B.2, and 2nd Revised Sheet 14, Sec. 7.1.2.B.5.

[47] *See, e. g.*, Schedule Cal. P.U.C. No. B3 (3002 Data Channel), 3rd Revised Sheet 87, Sec. 3.2.3.B.2.f.

[48] Enhanced service providers that offer services that compete with VMS are not common carriers.

[49] *Phase I Order*, 104 FCC 2d at 1048-9, paras. 174-175.

[50] *Id.* at 1047, para. 172.

[51] *Phase I Recon Order*, 2 FCC Rcd at 3068, n. 261.

[52] *Phase I Further Recon Order* at paras. 43-46.

[53] *Phase I Recon Order*, 2 FCC Rcd at 3054, para. 134.

[54] Pacific states that transmission can be provided though Centrex lines, standard measured business lines, DID trunks, and 800 service lines. Signalling information may be furnished through its 3002 series analog private lines, which Pacific says provide certain calling and called number identification and message waiting notification capabilities. Plan at 10-11. *See supra* para.8.

[55] Plan at 10.

[56] *Id.* at 11-12.

[57] *Id.* at 22.

[58] ANPA Comments at 5.

[59] *Id.*

[60] California Comments at 2. On March 6, 1987, Bell Atlantic filed a CEI plan for the offering of an enhanced announcement service. Under Bell Atlantic's original plan, enhanced service providers not affiliated with Bell Atlantic would pay a standard monthly charge for the proposed CEI offering (a business-grade dial-tone line), while Bell Atlantic proposed to charge its enhanced service operations for its "short loop" connections between its enhanced service equipment and its collocated central office switch. In its reply comments on its plan, Bell Atlantic amended the plan to charge its enhanced service operations the same rates that it had proposed for unaffiliated enhanced service providers. *See* Bell Atlantic Telephone Companies Offer of Comparably Efficient Interconnection to Enhanced Service Providers, *Memorandum Opinion and Order*, FCC 88-12 (released Feb. 18, 1988), para. 24.

[61] Telenet Comments at 2.

[62] Pacific Reply at 12.

[63] Plan at 13.

[64] If Pacific desires to change the structure of those tariffs to a form inconsistent with our requirements, it must obtain a waiver of the requirements before doing so. *See Phase I Recon Order*, 2 FCC Rcd at 3054, para. 134; *Phase* I Further Recon Order at paras. 60-62.

[65] See Phase II Order, 2 FCC Rcd at 3082, para. 72.

[66] Plan at 22-23.

[67] Pacific Bell's and Nevada Bell's Permanent Cost Allocation Manuals for the Separation of Regulated and Nonregulated Costs, Memorandum Opinion and Order, 3 FCC Rcd 287 (1988).

[68] Phase II Order, 2 FCC Rcd at 3094-3098, paras. 152-156, 162-165, 172- 174, and 176.

[69] Phase II Recon Order at paras. 113-115.

[70] Plan at 24.

[71] ANPA Comments at 6. See infra paras. 76-80.

[72] ATSI Comments at 4.

[73] Id.

[74] Id. at 5.

[75] Id. at 6.

[76] Id.

[77] Id.

[78] Id. at 6-7.

[79] Id. at 7.

[80] Id.at 3.

[81] ATSI Reply at 11.

[82] Id. at 12.

[83] ESPA Reply at 4-5.

[84] California Comments at 2-5.

[85] Pacific Reply at 14-16.

[86] We note that many of the concerns expressed by these parties should be allayed by various clarifications we have made to the CPNI requirement in the Phase II Recon Order.

[87] Pacific should describe with particularity how it will comply with our requirements. We note that, like our treatment of CPNI in the CPE context, the BOCs are required to make CPNI available to competing enhanced service providers at the customer's request on the same terms and conditions as it is made available to BOC enhanced service marketers. See Phase II Order, 2 FCC Rcd at 3095, paras. 154-55; Furnishingof Customer Premises Equipment by the Bell Operating Telephone Companies and the Independent Telephone Companies, Report and Order, 2 FCC Rcd 143, 153, para. 70. Accordingly, we require Pacific to state in detail how it will fulfill this requirement, and provide additional information on the CPNI that it plans to use for VMS marketing.

[88] Phase II Order, 2 FCC Rcd at 3082, para. 73.

[89] Phase II Recon Order at paras.76-77.

[90] Plan at 18.

[91] Id. at Attachment B.

[92] ANPA Comments at 4, citing Phase I Order, 104 FCC 2d at 1056, para. 192.

[93] Pacific Reply at 13-14.

[94] Phase II Order, 2 FCC Rcd at 3086, para. 100.

[95] Such increased detail should include, but is not limited to, some indication of the relative frequency of trouble reports received from Pacific's enhanced service operations versus those of its competitors. If Pacific chooses to perform quality and reliability reporting, we also require additional objective data on these categories to be included in its reports.

[96] Id. at 3087-88, paras. 107-112.

[97] Phase II Recon Order at para. 120.

[98] Plan at 24, citing Phase I Order, 104 FCC 2d at 1082-1083, paras. 250-252 and Phase II Order at paras. 107-112.

[99] Plan at 24-25.

[100] ESPA Comments at 8-9.

[101] ESPA Comments at 9. See also BOC Separation Order, 95 FCC 2d 1117 (1984), aff'd sub nom. Illinois Bell Telephone Co.v. FCC, 740 F.2d 465 (7th Cir. 1984), aff'd on recon FCC No. 84-252 (1984), aff'd sub nom. NATA v. FCC, 772 F.2d 1282 (7th Cir. 1985).

[102] ESPA Reply Comments at 6.

[103] Plan at 16-17.

[104] Pacific cites the Capitalization Plan Order, 62 Rad. Reg. 2nd (P&F) 471 (1985), at paras. 35-41.

[105] Provision of Customer Premises Equipment by the Bell Operating Telephone Companies and Independent Telephone Companies, Report and Order, 2 FCC 2d 143 (1987), recon. FCC 87-389 (released Dec. 17, 1987).

[106] ANPA Comments at 7.

[107] BellSouth Reply Comments at 2-3.

[108] See Letter from Harry Schwedock, Vice-President, Amvox, to Chief, Common Carrier Bureau (filed July 9, 1987).

[109] Octel Comments at 1-2; SWBT Comments at 2.

[110] ATSI Comments at 2.

[111] Id. at 1.

[112] Plan at 10-11.

[113] Id. See U.S. v. AT&T, 552 F. Supp. 131 (D.C. Cir. 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983). See also United States v. Western Electric Co., Civil Action No. 82-0192, slip op. (D.C. Dist. Ct. Sept. 10, 1987).

[114] ATSI has not explained how, as a practical matter, its members are likely to suffer any specific harm from the unavailability of interstate BSEs before Pacific's ONA plan is implemented. For example, many enhanced service providers currently use local business lines and pay intrastate rates for their switched access connections to local exchange company central offices, even when they are providing interstate service. Amendments of Part 69 Rules Relating to Enhanced Service Providers, Notice of Proposed Rulemaking, 2 FCC Rcd 4305 at 4306, para. 6. Id. at para. 8. While the CEI features included in the Pacific Plan, such as Hunting Service, Automatic Call Distribution, Forwarded Call Information, and Centrex are all tariffed by Pacific as intrastate services, such services are commonly used for interstate as well as intrastate calling, and it is difficult to conceive of a scenario under which Pacific would restrict those services to intrastate calls. Plan Appendix, Attachment D. For 800 service, the Plan includes only its intrastate 800 line access tariff, but all of the BOCs also provide access lines for interstate 800 service, and our rules prohibit carriers from denying the use of such service to voice messaging services or any other category of user. ATSI has not indicated what other forms of interstate access its members would need that are not currently available under tariff from Pacific, nor has it described any circumstances under which it would expect Pacific to begin prohibiting interstate use of facilities that are currently available for voice messaging services.

[115] AT&T filed comments on the Pacific Plan prior to the decision of the United States District Court for the District of Columbia, rendered September 10, 1987, modifying the restriction that prohibited the BOCs from entering information services mar-

ket. The District Court, Judge Harold Greene presiding, concluded that the information services restriction should be modified in certain respects. The court established general guidelines on the activities it would allow, and required interested persons to file memoranda regarding the details of such permissable activities. United States v. Western Electric Co., Civil Action No. 82-0192, slip op. at 203.

[116] Plan at 9 n. 9.

[117] Id. at 25.

[118] Id. at 25-26.

[119] ESPA Comments at 7.

[120] ESPA Comments at 8 n. 8. ANPA also indicates that BOC-provided billing services may be necessary, but expresses its concern in the context of CPNI issues. ANPA Comments at 6. See supra para. 50.

[121] Pacific Reply at 18-19. Pacific further acknowledges ANPA's expression of concern over the proprietary nature of billing information and states that it will take this concern into consideration in designing procedures associated with any voice mail billing service. Id. at 19 n. 32.

[122] Detariffing of Billing and Collection Services, Report and Order, 102 FCC 2d 1150 (1986) (Detariffing Order), modified on reconsideration, 1 FCC Rcd 445 (1986). We found in the Detariffing Order that "significant competition exists and will continue to develop" in the provision of billing and collection services for interexchange common carriers. 102 FCC 2d at 1170, para. 37.

[123] While ESPA argues that there are no effective alternatives to having Pacific perform billing for providers of services that compete with the VMS offering, the record compiled in this proceeding would not support a finding to that effect.

[124] 47 U.S.C. § 152(b).

[125] California Opposition at 2.

[126] Id. at 3-4.

[127] Phase I Order, 104 FCC 2d at 1128, para. 348.

[128] Phase I Recon Order, 2 FCC Rcd at 3061, para. 181.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

THE BELL ATLANTIC
TELEPHONE
COMPANIES

Offer of Comparably Efficient
Interconnection to Enhanced
Service Providers

MEMORANDUM OPINION AND ORDER

Adopted: January 14, 1988 Released: February 18, 1988

By the Commission:

TABLE OF CONTENTS

	Paragraph
I. INTRODUCTION	1
II. BACKGROUND	2-3
III. CEI COMPLIANCE ISSUES	4
A. Service Description	4
1. The Bell Atlantic Description	4
2. Positions of the Parties	5
3. Discussion	6-7
B. CEI Parameters	8
1. The Bell Atlantic Treatment	9-18
2. Positions of the Parties	19-20
3. Discussion	21-23
C. CEI Pricing	24
1. The Bell Atlantic Proposal	24
2. Positions of the Parties	25-30
3. Discussion	31
D. Other Nonstructural Safeguards	32
1. The Bell Atlantic Treatment	32-35
2. Positions of the Parties	36-37
3. Discussion	38-41
E. Other Issues	42
1. Collocation	42
a. Positions of the Parties	42-44
b. Discussion	45
2. Modified Final Judgment	46
a. Positions of the Parties	46
b. Discussion	47
IV. JURISDICTION	
A. Positions of the Parties	48
B. Discussion	49
V. ORDERING CLAUSE	50
Attachment A	

I. INTRODUCTION

1. Pursuant to the requirements established in our *Computer III* proceeding,[1] Bell Atlantic on March 6, 1987, filed a Comparably Efficient Interconnection (CEI) plan (the Plan) for the offering of a message storage service. While Bell Atlantic claims that the Plan as originally filed comports with the CEI requirements, it amended its Plan in response to criticism raised by various parties about its proposed pricing policies. We conditionally approve the Plan as amended, but we require Bell Atlantic to further amend it by March 21, 1988, to reflect the changes in our requirements for nondiscrimination reporting and for the use of customer proprietary network information (CPNI) that we adopt today in the *Phase II Recon Order*.[2]

II. BACKGROUND

2. The *Phase I Order* established nonstructural safeguards to replace the structural separation requirements of *Computer II* for the provision of enhanced services by AT&T and the BOCs. We required the BOCs to file Open Network Architecture (ONA) plans by February 1, 1988. The BOCs' ONA plans must include an initial set of key Basic Service Elements (BSEs) that can support a wide variety of enhanced services and that will be provided to competing enhanced service providers (ESPs) on request. Prior to our approval of its ONA plan, a BOC may offer a specific enhanced service on a fully integrated basis provided we approve a BOC CEI plan for each such service.

3. The CEI plan must include a description of the enhanced service to be offered and an explanation of how the BOC plans to satisfy the "equal access" criterion of the *Phase I Order* as applied to the following specific CEI parameters: interface functionality; unbundling of basic services; resale; technical characteristics; installation, maintenance, and repair; end user access; CEI availability; minimization of transport costs; and recipients of CEI. The CEI plan also must include sample state and federal tariffs that satisfy our CEI pricing requirements, and it must satisfy our other nonstructural safeguards governing disclosure of network information, nondiscrimination reporting, and the use of CPNI.[3] In the *Pacific CEI Order*,[4] adopted today, we have approved the CEI plan of Pacific Bell and Nevada Bell (Pacific) for Voice Mail Services (VMS).

III. CEI COMPLIANCE ISSUES

A. *Service Description*

1. *The Bell Atlantic Description*

4. In the Plan, Bell Atlantic proposes to offer a service that "will allow [non-telephone company] information service providers and end users to store customer messages electronically in telephone company-owned equipment lo-

cated in central offices."[5] The public would access the stored messages through the public switched network, via line-side connections to the end office switch, which would route callers to the collocated message storage equipment. Bell Atlantic further explains in its reply comments that the service is intended to store public announcements and that:

> [e]xamples of similar public announcements offered today are sports score information sponsored by television stations, stories for children from libraries, museum announcements of natural phenomena, and farming and gardening information from Agricultural Extension Service offices.[6]

Bell Atlantic states that the proposed service will be offered initially by the Bell Telephone Company of Pennsylvania.

2. *Positions of the Parties*

5. Some commenters claim that Bell Atlantic's description of its proposed enhanced service is overly terse and ambiguous.[7] While Bell Atlantic argues in reply that the service description in the Plan is adequate, the reply also describes its proposed enhanced service in greater detail.

3. *Discussion*

6. While the Plan's service description is somewhat ambiguous with regard to the extent of the customer's interaction with the proposed enhanced service, we find that the Plan adequately describes an announcement service. From the literal service description, it is not totally clear whether the proposed service is a straightforward announcement service or some type of messaging service. Although the Plan does not specifically propose to offer voice messaging service (which could, for example, temporarily store messages from customers and forward them to other customers), the Plan does nevertheless refer to a service that "will allow information service providers and end users to store customer messages electronically in telephone company- owned equipment located in central offices."[8] On the other hand, in its reply comments, Bell Atlantic specifically characterizes its message storage as an announcement service.[9]

7. Our approval of the Plan is based on our interpretation that the proposed service is an announcement service only, and not a voice messaging or electronic mail type of service.[10] If Bell Atlantic wishes to offer a functionally different enhanced service it must either amend the Plan or submit a new CEI plan for that service.

B. *CEI Parameters*

8. As we noted in the *Pacific CEI Order*, the CEI parameters are designed to ensure that the basic services used by a BOC's enhanced service offering are available to other ESPs on an "equal-access" basis.[11] We summarize below Bell Atlantic's descriptions of how it fulfills these parameters.

1. *The Bell Atlantic Treatment*

9. As described in the Plan, Bell Atlantic will use a so-called "short loop" line-side connection to interconnect its collocated message storage equipment to an end office switch. As a CEI arrangement for competing ESPs, Bell Atlantic proposes to provide them with business-grade dial tone lines (DTLs) that are available under existing state tariffs.

a. *Interface Functionality*

10. According to Bell Atlantic, the interface functionality of the business DTLs that it is offering for CEI is identical to that used by its proposed enhanced service offering. Bell Atlantic states that it will use the identical features and functionalities for its enhanced service offering that it will provide to other ESPs. Bell Atlantic will not provide its enhanced service operations or other ESPs with special interfaces or features.

b. *Unbundling*

11. Under the Plan, the business DTL that Bell Atlantic is offering for CEI is already offered under existing state tariffs that are unbundled from other tariff elements. Bell Atlantic thus claims that no further unbundling is needed.

c. *Resale*

12. The Plan states that "Bell Atlantic will subscribe to the business dial tone lines and provide those lines as part of its enhanced service offering."[12] As we discuss in more detail below,[13] Bell Atlantic states that it will charge its enhanced service operations the same tariffed business line rates that it will charge to other ESPs.[14]

d. *Technical Characteristics*

13. According to the Plan, the line-side switching characteristics for competing ESP offerings, including software translations and hardware cross-connections in the affected central offices, will be identical to those used by Bell Atlantic in the provision of its enhanced service.[15] Bell Atlantic notes that the analog lines provided to ESPs for CEI will experience some attenuation because such lines will extend beyond the central office. However, Bell Atlantic states that the degree of attenuation is very limited and is anticipated in the design of current voice storage equipment. Thus, Bell Atlantic claims, such attenuation will not impede the performance of voice storage equipment used by ESPs.[16]

e. *End User Access*

14. Under Bell Atlantic's CEI proposal, all customers of the Bell Atlantic service or a competitor's service will dial the same number of digits. The Plan states that no abbreviated dialing or signaling, or derived channels, are to be associated with the service.[17]

f. *CEI Availability*

15. The Plan states that DTLs, the only basic service needed for CEI, are now available. In its reply comments, Bell Atlantic clarifies that because no new network capabilities are being introduced in the Plan, there is no need to introduce a testing period.[18]

g. *Installation, Maintenance, and Repair*

16. The Plan states that "[t]he installation and repair intervals for the business dial tone lines . . . used in connection with enhanced services, whether offered by Bell Atlantic or a competitor, will be the existing standard intervals for such business lines."[19]

h. *Minimization of Transport Costs*

17. In the Plan, Bell Atlantic claims that the tariffed rates for business DTLs reflect economies realized through the use of subscriber loop carriers and other multiplexing and concentration systems. Thus, it claims, the transmission costs reflected in these tariffs already are minimized.[20] In its reply comments, Bell Atlantic states that an alternative implementation of CEI, in which it would provide ESPs with a high capacity line and associated multiplexing equipment rather than DTLs, would cost the ESPs significantly more than the same number of DTLs.[21] Moreover, Bell Atlantic claims, because its enhanced service operations will pay the same tariffed business line rate as other ESPs, the amount of its transmission costs is no longer relevant.[22]

i. *CEI Recipients*

18. According to the Plan, the Bell Atlantic CEI offerings are available to ESPs and end users under the same rates, terms, and conditions.[23]

2. *Positions of the Parties*

19. Opponents of the Plan criticize certain aspects of Bell Atlantic's treatment of the CEI parameters, claiming, for example, that the proposed CEI arrangement would not maintain technical equality.[24] These arguments are based upon the alleged differences in performance characteristics between an intraoffice short loop and a conventional subscriber loop like that used in a business DTL. Parties further argue that the Plan makes no provisions for testing of the CEI offering by ESPs.[25] ANPA also claims generally that the Plan does not provide sufficient detail to demonstrate Bell Atlantic's compliance with the CEI parameters for interface functionality; installation, maintenance, and repair; and end user access.[26] As summarized above, Bell Atlantic addresses these comments by describing the proposed service and CEI arrangements in greater detail in its reply.[27]

20. Several parties contend that Bell Atlantic does not satisfy the unbundling requirement, claiming either that in its Plan it has proposed to charge itself a lesser rate for the unbundled basic service that it uses for its enhanced service,[28] or that Bell Atlantic has not unbundled its basic CEI offering into two separately priced elements, for interconnection or termination at the central office and for transmission or transport.[29] Replying to the latter argument,[30] Bell Atlantic states that its CEI offering provides ESPs with the set of basic service functions they need to offer comparable enhanced services without purchasing basic service functions that they do not need. According to Bell Atlantic, its opponents have not shown why further unbundling is either necessary or appropriate.[31] It claims that the standard business-grade dial tone line that it will offer for CEI include both central office and transport functions.[32]

3. *Discussion*

21. We find that the Plan, as clarified by Bell Atlantic in its reply comments, satisfies the CEI parameters.[33] We accept the explanations contained in the Plan and in Bell Atlantic's reply comments of how the proposed CEI arrangements will satisfy our requirements for the following CEI parameters: interface functionality; end user access; availability;[34] installation, maintenance, and repair;[35] and recipients of CEI. We do not find objections to the Plan's treatment of these parameters to be grounds for its rejection, since Bell Atlantic has described its compliance with these parameters in a reasonable fashion.

22. Despite the views of some parties, we also find that the Plan satisfies the technical characteristics parameter. As we discussed in the *Phase I Recon Order*,[36] we interpret the CEI "equal access" standard for technical characteristics in a reasonable and efficiency-promoting manner. We cited the introduction of unavoidable, minimal distortion introduced into a transmission line in the process of amplification as a case in which this standard is satisfied.[37] Similarly, we find in this Order that the normal attenuation that occurs in the conventional subscriber loops used for CEI in the Plan is another minimal effect that does not violate our equal access standard for technical characteristics.[38]

23. We also find that the degree of unbundling proposed by Bell Atlantic complies with our *Computer III* standards for this parameter. In Section III.C. below, we address the pricing issues that some parties associate with the unbundling parameter. We see no reason to require further unbundling, either in tariffing or in the technical sense, of business-grade dial tone lines when it is not apparent that such further unbundling would serve a useful purpose in terms of our CEI requirements.[39] The Plan further satifies the requirements of the resale parameter, since Bell Atlantic will charge its enhanced service operations the same unbundled, tariffed business line rates that it will charge other ESPs.

C. *CEI Pricing*

1. *The Bell Atlantic Proposal*

24. Under the Plan, ESPs would pay for Bell Atlantic's CEI offering under the existing state tariff for a DTL, *i. e.*, a non-distance- sensitive flat rate of $6/month/line, plus a $3.30/month subscriber line charge (SLC), plus an $82 non-recurring charge.[40] For the short loop connection between its central office switch and its enhanced service equipment, Bell Atlantic originally proposed to charge its enhanced service operation a "distance-sensitive" rate of $1.97/month/line, with no SLC, plus a $45.76 non-recurring charge.[41] However, in its reply comments, Bell Atlantic altered its original short loop pricing proposal. It offers, instead, to charge its enhanced service operation the same rates that it had proposed for the ESPs: $6.00/month/line, plus a $3.30/month SLC, plus an $82 non-recurring charge.[42]

2. *Positions of the Parties*

25. Most commenters oppose the original CEI pricing proposal in the Plan. These parties principally claim that: (a) the proposal's costing methodology is deficient; (b) the cost support data are inadequate; (c) the unbundled short loop that Bell Atlantic prices for itself is not available to others,[43] (d) the sample state and federal tariffs do not have adequate detail,[44] and (e) it is inappropriate for a BOC to offer itself a distance- sensitive short loop tariff when all other ESPs are only offered a single flat rate regardless of their distance from the central office.[45] A number of commenters also assert that Bell Atlantic has failed to satisfy the CEI requirements that it minimize transmission costs for competing ESPs, because Bell Atlantic does not offer either distance-sensitive rates or proposals for multiplexing loops to the premises of ESPs.[46]

26. As noted above, Bell Atlantic alters its CEI pricing proposal in its reply. However, Bell Atlantic also claims that while its original short loop pricing proposal comports with our guidelines for CEI pricing, it is nevertheless willing to impute the business DTL rate to its enhanced service operations, since these costs would amount to no more than seven percent of the total service package.[47] Bell Atlantic further states that "this minor adjustment . . . should not be considered a precedent for the Commission to alter its present policy and impute such phantom costs to integrated or collocated enhanced services."[48]

27. Commenting only in the reply round, the Department of Justice (DOJ) proposes that we reject the Plan outright because of its purported anti-competitive aspects and require Bell Atlantic to submit a revised Plan following certain guidelines outlined by DOJ. DOJ argues that the Plan should be rejected because it does not offer competitors either collocation, or the opportunity to avail themselves of distance-sensitive transmission charges. Therefore, DOJ claims, the Plan does not "conform to the procompetitive 'equal access' standard of Computer III."[49] DOJ accordingly recommends that we "simply reject that plan rather than attempting at this point to prescribe changes to conform a fundamentally defective plan to the *Computer III* standards."[50]

28. In light of the significant new proposals in the reply comments (*i. e.*, the CEI pricing change proposed by Bell Atlantic and the DOJ proposal regarding a revised Plan), we invited a supplemental round of comments. Of nine parties filing supplemental comments, Bell Atlantic and NYNEX urge approval of the Plan. Bell Atlantic notes that DOJ's reply comments are based on the pricing structure established in the original plan, stating that "[s]ince Bell Atlantic has agreed to charge its [message storage service] offering the same tariffed business line rates which are available to competitors, all of these objections are now moot. Accordingly, there is no reason for the Commission to delay approval of Bell Atlantic's CEI Plan."[51]

29. In the supplemental round, NYNEX agrees that Bell Atlantic's modified pricing proposal meets Commission objectives. NYNEX claims that the existing DTL prices to be charged all ESPs, incuding Bell Atlantic, reflect transmission costs that have been minimized by technological methods in accordance with the already stated preference of this Commission.[52] NYNEX notes that hundreds of end users are already connected to the end office by conventional line side switching and that ESPs require only a few DTLs (as determined by telephone traffic blocking theory). As a consequence, according to NYNEX, the existing end office switch inherently performs a traffic concentration function in this service application and thus minimizes transmission costs.[53] Finally, NYNEX agrees with Bell Atlantic's request, in its reply comments, that its pricing modification should not have precedential value.[54]

30. In their supplemental comments, ANPA, IIA, and NTIA support Bell Atlantic's revised pricing proposal but, nevertheless, oppose approval of the Plan because of concerns with minimization of transmission costs, satisfaction of the CEI parameters, and other issues discussed in Section III. CONAP claims that Bell Atlantic has not established that the rates for intrastate private lines are cost based and that "[this omission is] a fatal deficiency that is not cured by Bell Atlantic charging itself the same rate for dial-up service . . . ." CONAP therefore urges us to adopt the DOJ proposal, which would require resubmission of the Plan.[55] IIA also supports the DOJ proposal.

3. *Discussion*

31. Bell Atlantic's modified pricing proposal satisfies our pricing requirements.[56] The modified proposal effectively moots the substantive objections regarding the costing and pricing methodology originally presented in the Plan, and the quality of the cost support material. Moreover, the modified pricing proposal also effectively fulfills our requirement that transmission costs for other ESPs be minimized. Since Bell Atlantic and its competitors will be paying the same tariffed rates for the basic services that support their enhanced services, the procompetitive goals of that requirement are met.[57]

D. *Other Nonstructural Safeguards*

1. *The Bell Atlantic Treatment*

a. *Customer Proprietary Network Information*

32. Bell Atlantic states that it will comply with the CPNI requirements of the *Phase I Order*. If customers do not wish Bell Atlantic to use their CPNI, Bell Atlantic describes a system of internal controls to insure compliance with their customers' wishes.[58]

b. *Nondiscrimination Reports*

33. Bell Atlantic plans to track installation and maintenance performance for services rendered to Bell Atlantic's enhanced service operations and to ESPs and report such performance on a quarterly basis.[59] These reports will include, for Bell Atlantic and for unaffiliated ESPs: (1) total installation orders and number of orders for which the promised intervals were not met and (2) total trouble reports and average duration of trouble or outage. In addition, Bell Atlantic plans to report the number of complaints received from ESPs in connection with services provided pursuant to the Plan.[60]

c. *Disclosure of Network Information*

34. According to the Plan, "[n]o changes to existing interconnection specifications will be made in connection with provision of Bell Atlantic's enhanced service."[61] In its reply comments, Bell Atlantic states that in the event that it makes network changes, it realizes its obligations to disclose these changes in advance.[62]

d. *Allocation of Joint and Common Costs*

35. Bell Atlantic states that it will follow the procedures of the *Joint Cost Order* and will not commence service until we have approved a manual filed pursuant to that Order.[63]

2. *Positions of the Parties*

36. Comments on the nonstructural safeguards discussed in the Plan center on CPNI.[64] NYCHA/CCTU opposes the CPNI requirement adopted in the *Phase I Order*. The *Phase II Order* permits a BOC to use CPNI in marketing its enhanced services unless a customer directs the BOC not to use its CPNI. NYCHA/CCTU proposes, instead, that we require prior authorization by a customer before a BOC can use its CPNI for enhanced service marketing.[65] NTIA proposes that each BOC be required to ask customers whether their CPNI should be released to all ESPs (including the BOC) without requiring the customers specifically to identify the vendors.[66] In its supplemental com-

ments, ANPA states that the Plan should be rejected and resubmitted, based on, among other things, the deficiencies of the procedures that Bell Atlantic proposes to follow to conform to our CPNI safeguard.[67]

37. Bell Atlantic states in its reply comments that, while several parties oppose its proposed procedures for the release of CPNI, no one claims that these procedures are inconsistent with our requirements. It asserts that, in fact, the procedures are fully in accord with the requirements of the *Phase II Order*. According to Bell Atlantic, therefore, we should deny the requests for changes to the CPNI safeguard as improper requests for reconsideration and confirm that the Plan meets our CPNI requirements.[68]

3. ***Discussion***

a. ***Customer Proprietary Network Information***

38. The *Phase II Order* adopted the same CPNI safeguard for the provision of enhanced services by the BOCs that we had adopted in the *BOC CPE Relief Order* [69] for BOC provision of CPE.[70] While we have modified certain aspects of the CPNI safeguard for BOC enhanced service operations in the *Phase II Recon Order*, adopted today, we have affirmed generally the CPNI requirement of the *Phase II Order*. [71] The parties commenting on Bell Atlantic's CPNI procedures are really objecting to the safeguard itself.[72] We agree with Bell Atlantic that attacks on this safeguard are essentially untimely petitions for reconsideration. Such questions are not appropriately raised in a proceeding to determine whether a particular CEI plan complies with our CPNI requirements.

39. However, the *Phase II Recon Order* adopted certain requirements to make it easier and more convenient for customers to restrict BOC access to their CPNI. Since the Plan does not address these additional requirements, we condition our approval of it on Bell Atlantic's compliance with them. Accordingly, by March 21, 1988, we require Bell Atlantic to amend the Plan to conform with the CPNI safeguard as clarified in the *Phase II Recon Order*. With the incorporation of these modifications into the Plan, we are satisfied that the interests of users and of competitors of the Bell Atlantic enhanced service will be protected.

b. ***Nondiscrimination Reporting***

40. Applying our analysis of the *Pacific CEI Order*, [73] we note that pursuant to the *Phase II Recon Order*, if Bell Atlantic were to amend its forthcoming ONA plan to demonstrate that its BSE provisioning procedures preclude discrimination against unaffiliated ESPs, the nondiscrimination reporting requirements that it must satisfy would be modified as stated in the *Phase II Recon Order*. Until such a time, however, Bell Atlantic remains subject to our requirement that it file quarterly reports that compare, for its enhanced service operations and those of other ESPs: (a) the timing of installation and maintenance, and (b) the quality and reliability of the basic services offered as part of CEI.[74] The reports proposed in the Plan satisfy the first of these requirements, but Bell Atlantic's proposed quality and reliability reports, which simply list the total number of trouble reports, average duration of trouble or outage, and ESP complaints regarding the CEI offering, are not adequate under the reporting standards currently applicable to Bell Atlantic. Accordingly, we condition approval of the Plan on Bell Atlantic obtaining approval of either (a) amendments to its ONA plan in the manner described in the *Phase II Recon Order*, so that it will not be subject to this reporting requirement, or (b) amendments, by March 21, 1988, to this CEI Plan that include more detail about its proposed quality and reliability reports.[75]

c. ***Other Nonstructural Safeguards***

41. While parties request clarification of Bell Atlantic's implementation of the network information disclosure requirement in the Plan, we find that Bell Atlantic adequately responds in its reply comments to those concerns, and we approve its treatment of this safeguard.[76] We also approve Bell Atlantic's proposal to follow the cost allocation procedures of the *Joint Cost* proceeding.[77]

E. ***Other Issues***

1. ***Collocation***

a. ***Positions of the Parties***

42. The record in this compliance proceeding also addresses general policy issues relating to collocation of ESP facilities with Bell Atlantic basic service facilities. Several parties support mandatory collocation of ESP equipment in BOC central offices.[78] NTIA proposes a variation of this concept, "virtual collocation", which is a distance- sensitive, zone-based pricing system. Under this proposal, any ESP situated in the innermost zone would pay transmission charges at the minimum rate (NTIA proposes a three-mile band around a central office as an example). The BOC would offer its enhanced services on a collocated basis, but charge its enhanced service operations the same (minimum) rate that would apply to the non-BOC ESPs located in the first zone.[79]

43. In its supplemental comments, IIA recommends that NTIA's virtual collocation concept be adopted.[80] While Telenet acknowledges that Bell Atlantic presents a modified pricing proposal in its comments, it does not consider that proposal to be an appropriate solution to the collocation issue. It concludes that we should "clarify the CEI obligations of the BOCs to require *equal* pricing for access to basic services for their own enhanced services and those of competitors."[81] Under such a requirement, according to Telenet, a BOC would have the flexibility to take advantage of short loop pricing based on full collocation, or of band pricing based upon virtual collocation, provided that it offered identical terms to an ESP.

44. In its reply comments, Bell Atlantic claims that commenters that seek mandatory collocation simply repeat arguments that we already rejected in the *Phase I Order* and subsequent *Computer III* orders.[82]

b. ***Discussion***

45. The issues that several parties raise regarding collocation have already been resolved in other proceedings. The *Phase I Order* addressed the mandatory collocation issue and declined to impose such a condition.[83] Similarly, we considered and rejected proposals regarding virtual collocation concepts in the *Phase I Recon Order*. [84] Accordingly, we decline to consider these arguments in evaluating Bell Atlantic's compliance with our general CEI requirements. We note, however, that in light of Bell Atlantic's amendment to its pricing proposal, the general concerns expressed by parties urging some form of collocation have been adequately addressed.

2. *Modified Final Judgment*

a. *Positions of the Parties*

46. Phone Programs asserts that in submitting the Plan, Bell Atlantic has ignored the restriction on BOC provision of information services of the Modified Final Judgment (MFJ).[85] According to Phone Programs, we should either dismiss the Plan or hold it in abeyance pending the outcome of ongoing proceedings before the MFJ court regarding the information services restriction. MCI states that our consideration of the Plan is an enormous misuse of Commission and private resources because the MFJ restricts Bell Atlantic from providing the proposed service. MCI suggests, instead, that the Commission require Bell Atlantic to seek and obtain the necessary authority from the MFJ court before submitting the Plan for public comment and our review.[86] Bell Atlantic replies that we rejected similar arguments to delay completion of *Computer III* in the *Phase I Order*, and notes that we have granted requests for expansion of cellular coverage areas while requests for waiver of the MFJ were pending before the MFJ court.[87]

b. *Discussion*

47. As we have noted in the *Pacific CEI Order*, the restriction in the MFJ on BOC provision of information services does not restrict us from independently evaluating a BOC's CEI plan for compliance with our regulations.[88] Although Bell Atlantic may be required to obtain a waiver from the MFJ court to offer its proposed service, we need not wait for the MFJ court's determination to review the Plan for compliance with our requirements.

IV. JURISDICTION

A. *Positions of the Parties*

48. Several state and local regulators caution us that only state regulatory commissions have the authority to set intrastate rates, and urge us not to attempt to place conditions on underlying intrastate, basic CEI services that may be incompatible with state ratemaking authority and concepts.[89]

B. *Discussion*

49. We have fully explained the extent of our jurisdiction over enhanced services and the CEI process in the *Phase I Order* [90] and the *Phase I Recon Order*, [91] and our evaluation of the Plan herein is consistent with those Orders. Furthermore, based on the record compiled on the Plan, there does not appear to be any inconsistency beween Bell Atlantic's proposed CEI offering and any state ratemaking authority.

V. ORDERING CLAUSE

50. IT IS HEREBY ORDERED that pursuant to Sections 1, 4(i) and (j), 201, 202, 203, 205, 218, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. "151, 154(i) and (j), 201, 202, 203, 205, 218, and 405, and 5 U.S.C. '553, the Bell Atlantic CEI Plan described in paragraph 1 above IS APPROVED, subject to the conditions described herein.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

ATTACHMENT A

Parties Filing Comments

ADAPSO
Alarm Industry FCC Advisory Committee (AIFAC)
American Newspaper Publishers Association (ANPA)
Association of Telemessaging Services International (ATSI)
ASYNCH Corp.
California Public Utilities Commission (CPUC)
Coalition of Open Network Architecture Parties (CONAP)
District of Columbia Public Service Commission (DCPSC)
Information Industries Association (IIA)
Florida Public Service Commission (FPSC)
Maryland Peoples Counsel (Maryland)
McCaw Communications Companies (McCaw)
MCI Telecommunications Corporation (MCI)
National Dial Centers
National Telecommunication and Information Administration (NTIA)
New York Clearing House Association and Committee for Corporate Telecommunications Users (NYCHA/CCTU)
Phone Programs, Inc. (Phone Programs)
Tymnet-McDonnell Douglas Network Systems, Inc. (Tymnet)
US Sprint and Telenet (Telenet)

Parties Filing Reply Comments

ATSI
Enhanced Service Providers Association (ESPA)
Bell Atlantic
BellSouth
Independent Data Communications Manufacturers Association (IDCMA)
Maryland
McCaw
MCI
Trintex
United States Department of Justice (DOJ)

Parties Filing Supplemental Comments

ANPA
Bell Atlantic
CONAP
IIA
Maryland
Messagephone Inc. (Messagephone)
NTIA
NYNEX
Telenet

FOOTNOTES

[1] *See* Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), *Report and Order*, 104 FCC 2d 958 (1986) (*Phase I Order*), *modified on reconsideration*, 2 FCC Rcd 3055 (1987) (*Phase I Recon Order*), *aff'd on further reconsideration*, FCC 88- 9 (released Feb. 18, 1988) (*Phase I Further Recon Order*). *See also Report and Order*, 2 FCC Rcd 3072 (1987) (*Phase II Order*), *modified on reconsideration*, FCC 88-10 (released Feb. 18, 1988) (*Phase II Recon Order*).

[2] If Bell Atlantic desires to offer its message storage service, or CEI for this service, under any conditions other than those approved in this order, it must either amend the Plan or file a new one.

[3] The BOCs must also satisfy the cost allocation requirements of our *Joint Cost Order*, which established compliance filing requirements that are separate from the CEI requirements. *See* Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, 2 FCC Rcd 1298 (1987), *modified on reconsideration*, 2 FCC Rcd 6283 (1987).

[4] Pacific Bell and Nevada Bell Plan for the Provision of Voice Mail Services, *Memorandum Opinion and Order*, FCC 88-11 (released Feb. 18, 1988). Because the *Pacific CEI Order* summarizes the various CEI requirements and nonstructural safeguards in some detail, we refer to it to avoid needless repetition of specific background information in this Order.

[5] Plan at 2.

[6] Bell Atlantic Reply Comments at 11, n.32.

[7] *See, e. g.*, CONAP Comments at 5; MCI Comments at 3-5; ANPA Comments at 4.

[8] Plan at 2. *See* also *supra* para. 3.

[9] Bell Atlantic says that if desired, billing for the service will be provided under the Audiotex 976 tariff. It states that "[b]illing services will not be offered with this enhanced service but are available under state- tariffed billing arrangements." Plan at 2. After ANPA and ADAPSO expressed concern that the Plan does not provide billing services for competing ESPs, Bell Atlantic explains that ESPs may receive billing services for their operations by subscribing to the state-tariffed Audiotex (976) service in those areas where it is available. Under these circumstances, according to Bell Atlantic, "information providers desiring to charge callers to access their information may . . . obtain end user billing under the Audiotex tariff". Bell Atlantic Reply Comments at 12, n.33.

[10] As discussed below, in describing its CEI implementation, Bell Atlantic claims that the only basic service needed for CEI purposes will be an ordinary business line. This CEI implementation is reasonable for a 976-type announcement service, but might not be sufficient for a more complex voice messaging or electronic mail service. Plan at 2-3. *See infra* paras. 8-23.

[11] *Pacific CEI Order* at para. 7.

[12] Plan at 3.

[13] *See infra* paras. 24-31.

[14] Bell Atlantic Reply Comments at 3.

[15] Plan at 3-4.

[16] *See id.* at 3-5.

[17] *Id.* at 5.

[18] Bell Atlantic Reply Comments at 12.

[19] Plan at 5 (footnote omitted).

[20] *See id.* at 6.

[21] Bell Atlantic Reply Comments at 6-7, n.15.

[22] *Id.* at 7.

[23] Plan at 6.

[24] *See, e. g.*, AIFAC Comments at 12, ANPA Comments at 7; MCI Comments at 15; Maryland Comments at 7.

[25] *See, e. g.*, IIA Comments at 8; Maryland Comments at 11; ANPA Comments at 8. Some commenters also oppose Bell Atlantic's proposal to minimize tranmission costs. Because that issue is linked closely to concerns expressed in the record about Bell Atlantic's CEI pricing proposals, we discuss these issues together below.

[26] ANPA Comments at 5-8.

[27] *See* Bell Atlantic Reply Comments at 6-12; *see also* paras. 4-6, 12, 17 and notes 6, 9, 14, 15, 18, 21 *supra*.

[28] *See, e. g.*, McCaw Comments at 7; ATSI Reply Comments at 13-14.

[29] *See* MCI Comments at 14; Tymnet Comments at 4; ANPA Comments at 5-6. ANPA argues that because the unbundling requirement is not met, the resale parameter cannot be satisfied. *See* ANPA Comments at 6.

[30] Bell Atlantic also discusses pricing issues associated with unbundling in its reply. *See* Bell Atlantic Reply at 3, 4-8.

[31] *Id.* at 6.

[32] Bell Atlantic Reply at 5-6.

[33] We address the parameter concerning minimization of transmission costs parameter in Section III.C. below.

[34] While commenters criticize the lack of a testing opportunity in the Plan, such an opportunity is superfluous because the basic service underlying the CEI offering, business DTL, has long been available to ESPs.

[35] We discuss the requirements that Bell Atlantic must satisfy for its reporting of installation and maintenance, as well as quality, in Paragraph 33 below.

[36] 2 FCC Rcd at 3048, paras. 91-93. The *Phase I Recon Order* was released after initial comments on the Plan were filed.

[37] *See id.*

[38] We agree that currently available voice recording and playback equipment for use with standard telephone lines has been designed with these attenuation characteristics in mind. *See supra* para. 13.

[39] Since Bell Atlantic proposes in its reply comments to charge its enhanced service operation the same averaged rate for basic service that all other ESPs will pay for CEI, it has satisfied the nondiscrimination goals of CEI.

[40] *See* Plan, Attachment A.

[41] In arriving at its short loop price, Bell Atlantic identified the total cost of the plant associated with business dial tone lines in terms of inside and outside plant. It then subtracted certain components of outside plant costs (which, it claimed, are not attributable to a collocated operation) and adjusted the standard business DTL tariff to derive a reduced monthly rate and nonrecurring charge. *See id.*

[42] Bell Atlantic Reply Comments at 7.

[43] This argument implicitly supports a mandatory collocation requirement.

[44] *See, e. g.*, AIFAC Comments at 11; ANPA Comments at 5-15; ATSI Comments at 8-18; CPUC Comments at 9; CONAP Comments at 5, Att. A; Maryland Comments at 10; MCI Comments at 3-6,16.

[45] *See, e. g.*, ADAPSO Comments at 2-7; AIFAC Comments at 3-10; ATSI Comments at 14; CONAP Comments at 9-11; DCPSC Comments at 1; FPSC Comments at 4; IIA Comments at 5; Maryland Comments at 2-5, 7; McCaw Comments at 7; MCI Comments at 6-12; NTIA Comments at 10; Telenet Comments at 9-14; Tymnet Comments at 3-4, 7-8.

[46] *See, e. g.*, ANPA Comments at 8; CPUC Comments at 9; MPC Comments at 8-9; McCaw Comments at 8-9; MCI Comments at 14; Telenet Comments at 7-9; Tymnet Comments at 5-7.

[47] *See* Bell Atlantic Reply Comments at 7, n.17.

[48] *Id.* at 8.

[49] DOJ Reply Comments at i.

[50] *Id.* at 7. In a footnote, DOJ further recommends that we require Bell Atlantic to submit a revised plan and that the information submitted in support of any revised plan should include:

> 1) a complete description of the service offering consistent with the Commission's 'overall principle of using service-specific CEI requirements'(Reconsideration Order at para. 79);
>
> 2) an explanation as to why collocation is not offered;
>
> 3) data sufficient to show that the transmission services to be offered competing enhanced service providers are 'the most efficient possible'; and
>
> 4) a discussion of unbundling of all relevant basic services and basic service functions sufficient to permit reasoned Commission review.

52 *Id.* at n. 13.

[51] Bell Atlantic Supplemental Comments at 2.

[52] NYNEX Supplemental Comments at 6, *citing Phase I Recon Order*, 2 FCC Rcd at 3055, para. 136, n.261.

[53] NYNEX Supplemental Comments at 5-6.

[54] *See supra* para. 24.

[55] CONAP Supplemental Comments at 8. *See also* ANPA Supplemental Comments at 4-13.

[56] As we discuss elsewhere in this Order, we also find that the Plan and Bell Atlantic's reply comments, taken as a whole, adequately address the issued raised in note 13 of DOJ's reply comments. *See supra* note 50. We discuss Bell Atlantic's service description *supra* at paras. 4-7; collocation principles *infra* at paras. 42-45; efficiency and minimization of transport costs *supra* at para. 17, and unbundling *supra* at para. 23.

[57] As we explain in the *Phase II Recon Order*, adopted today, this CEI requirement is designed to reduce the differential in transmission costs incurred by collocated BOC enhanced service operations and noncollocated competitive ESPs. When there is no such differential (which will be the case under Bell Atlantic's revised proposal), there is no need for additional steps to minimize transmission costs. *Phase II Recon Order* at paras. 29-34. Under ONA, of course, ESPs are free to request particular forms of interconnection and transmission that, in their view, will serve their needs efficiently. BOCs should provide such services, subject to the general criteria we have established for implementing BSEs. *See, e. g.*, Phase I Order, 104 FCC 2d at 1063-1068, paras. 210-222.

[58] Plan at 8.

[59] Id. at 7-8. In addition, the Plan states that Bell Atlantic will "place orders for basic services to be used to provide its enhanced services through the COGs, pending a final determination of the COG issue in Phase II of Computer Inquiry III." Id. at 7.

[60] Id.

[61] Id. at 9.

[62] Bell Atlantic Reply Comments at 10.

[63] Plan at 6.

[64] ANPA and NTIA also note that Bell Atlantic has an ongoing obligation to disclose any contemplated changes in interconnection specifications, and NTIA requests an affirmative statement from Bell Atlantic that it will comply with the applicable network disclosure obligations. See ANPA Comments at 5-7, 15; NTIA Comments at 14. As noted above in para. 34, Bell Atlantic gives such an assurance in its reply comments.

[65] See NYCHA/CCTU Comments at 4-12; see also ANPA Comments at 14-15.

[66] See, e.g., NTIA Comments at 14; NTIA Supplemental Comments at 6.

[67] ANPA Supplemental Comments at 6-8.

[68] Bell Atlantic Reply Comments at 8-9.

[69] BOC CPE Relief Order, 2 FCC Rcd at 153, para. 69.

[70] Phase II Order, 2 FCC Rcd at 3094-97, paras. 152-74.

[71] Phase II Recon Order at paras. 87-117.

[72] See supra para.37.

[73] Pacific CEI Order at para. 61.

[74] See Phase II Order, 2 FCC Rcd at 3086, para. 100.

[75] As we stated in the Pacific CEI Order, such increased detail should include, but is not limited to, some indication of the relative frequency of trouble reports received from Bell Atlantic's enhanced service operations versus those of its competitors. If Bell Atlantic were to choose to perform quality and reliability reporting, we also require additional objective data on these categories to be included in its reports. See Pacific CEI Order at para. 61 n. 96.

[76] See supra para. 34 and note 64.

[77] Bell Atlantic Operating Companies Permanent Cost Allocation Manual for the Separation of Regulated and Nonregulated Costs, DA 87-1899 (Released January 14, 1988).

[78] See ATSI Comments at 19; Telenet Comments at 6-7; NTIA Comments at 12- 13.

[79] See NTIA Comments at 12-13. In subsequent pleading rounds, the NTIA proposal was supported by Trintex and Telenet. See Trintex Reply Comments at 3; IIA Supplemental Comments at 5; Telenet Supplemental Comments at 3-7.

[80] See IIA Supplemental Comments at 3, 5.

[81] Telenet Supplemental Comments at 10 (emphasis in original).

[82] Bell Atlantic Reply Comments at 2.

[83] Phase I Order, 104 FCC 2d at 1037-1038, paras. 151-153.

[84] Phase I Recon Order, 2 FCC Rcd at 3053-3054, paras. 125-129.

[85] See Phone Programs Comments at 3-4, citing United States v. American Tel. and Tel. Co., 552 F. Supp. 131 (D.D.C. 1982), aff'd subnom. Maryland v. United States, 460 U.S. 1001 (1983).

[86] MCI Comments at 2-3.

[87] Bell Atlantic Reply Comments at 13.

[88] See Pacific CEI Order at para. 75.

[89] See, e.g., DCPSC Comments at 5; FPSC Comments at 6; CPUC Comments at 5.

[90] Phase I Order, 104 FCC 2d at 1039, para. 156; id. at 1128, para. 348.

[91] Phase I Recon Order, 2 FCC Rcd at 3051, para. 111; id. at 3054-55, paras. 133-36; id. at 3059-3063, paras. 173-90.

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: February 23, 1988

COMMENTS SOUGHT ON PACIFIC TELESIS SALES AGENCY PLAN

(CC Docket No. 86-79)

On February 12, 1988, Pacific Telesis (PacTel) filed an amended plan for providing unaffiliated vendors of customer premises equipment (CPE) with meaningful opportunities to market Centrex and other network services jointly with CPE. PacTel's amended plan includes a sales agency program, as well as the Intermediary and Joint Marketing programs described in its initial plan. The Bureau now invites public comment on this amended plan.

In the *BOC CPE Relief Order*, 2 FCC Rcd 143 (1987), *modified on reconsideration*, 3 FCC Rcd 22 (1988), the Commission relieved the Bell Operating Companies (BOCs) of the structural separation requirements governing their provision of CPE and replaced those requirements with non-structural safeguards. The Commission required the BOCs to submit plans describing how they would comply with these safeguards and delegated authority to the Chief of the Common Carrier Bureau (the Bureau) to review these plans. One of the safeguards adopted in the *BOC CPE Relief Order* is a requirement that the BOCs provide independent CPE vendors with meaningful opportunities, through sales agency programs or other functionally equivalent means, to market Centrex and other network services jointly with CPE (the joint marketing requirement). In its initial compliance plan, PacTel proposed to satisfy the joint marketing requirement through its Intermediary and Joint Marketing programs, and without a sales agency program. In the *BOC CPE Plans Order*, released Dec. 30, 1987, the Bureau found that PacTel's proposal did not satisfy the joint marketing requirement and directed PacTel to file an amended plan that included a sales agency program or its functional equivalent. PacTel claims that its amended joint marketing plan satisfies this directive.

In its amended plan, PacTel states that it will add a sales agency program to its Intermediary Marketing and Joint Marketing programs. Initially, PacTel will retain four to five sales agents in each of three local access transport areas (LATAs) (those encompassing the metropolitan areas of San Diego, Sacramento, and Reno) and will limit its sales agency program to Centrex, Commstar II, and Premier services. PacTel states that as the sales agency program matures, it will be expanded in scope.

Interested parties may file comments on the PacTel plan on or before March 25, 1988, and reply comments on or before April 11, 1988. Comments and reply comments must be filed with the Secretary, FCC, 1919 M Street, N.W., Washington, D.C. 20554. A copy of all filings should be sent to Gary Phillips, FCC, Room 544, 1919 M Street, N.W., Washington, D.C. 20554, and to the Commission's contractor for public records duplication, International Transcription Service (ITS), 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Copies of PacTel's amended joint marketing plan can be obtained from ITS by calling (202) 857-3800.

For further information, contact Gary Phillips, Policy and Program Planning Division of the Common Carrier Bureau, (202) 632-4047.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

Released: February 24, 1988

AT&T COMMUNICATIONS FILES PETITION FOR DECLARATORY RULING REGARDING CUSTOM SERVICE TARIFF OFFERINGS PLEADING CYCLE ESTABLISHED

On February 17, 1988, the American Telephone and Telegraph Company (AT&T) filed a petition for declaratory ruling concerning the standards under which AT&T's custom services tariffs will be reviewed by the Commission. Specifically, AT&T has asked the Commission to rule that a custom service tariff will not be found to be unjust, unreasonable, or discriminatory if it is shown that the service will increase AT&T's firm-wide net revenues over the period for which the service is contracted. AT&T concurrently filed a motion to establish an expedited schedule for the briefing and disposition of its petition.

Interested parties may file comments regarding this petition no later than March 24, 1988. Replies may be filed no later than April 7, 1988.

Copies of the petition may be obtained from the Commission's contract copier, International Transcription Service, Inc. (ITS), Room 246, 1919 M Street, N.W., Washington, D.C. 20554. A copy of the petition is also on file and available for public inspection in the Tariff Division, Common Carrier Bureau, Room 518, 1919 M Street, N.W. An original and five copies of all comments and replies must be filed, in accordance with Section 1.51(c) of the Commission's Rules. In addition, one copy of each comment or reply must be filed with ITS.

For further information, contact Larry Krevor, Tariff Division (202) 632-6917.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

GEN. Docket No. 84-1234

In the Matter of

Amendment of Parts 2, 22, and 25 of the Commission's Rules to Allocate Spectrum for and to Establish Rules and Policies Pertaining to the Use of Radio Frequencies in a Land Mobile Satellite Service for the Provision of Common Carrier Services

FEDERAL COMMUNICATIONS COMMISSION

Thomas P. Stanley
Chief Engineer

ORDER GRANTING EXTENSION OF TIME

Adopted: February 23, 1988; Released: February 25, 1988

By the Office of Engineering and Technology:

1. The Commission has received a request from the "Aviation Parties" to extend the period for filing reply comments in response to an opposition to the Further Petition for Reconsideration (Petition) filed in the above captioned docket. The "Aviation Parties" consist of Aeronautical Radio, Inc., the Air Transport Association of America, the Aircraft Owners and Pilots Association, the Air Line Pilots Association, the Helicopter Association International, the National Air Transportation Association, and the Regional Airline Association. Replies are due February 23, 1988 and the "Aviation Parties" request a three day extension. The "Aviation Parties" also filed a motion to accept the extension request since it was not filed within the period specified in Section 1.46 of the Commission Rules.

2. The "Aviation Parties" point out that coordination problems arose between multiple entities while formulating the reply. They state that these difficulties are being resolved but that 3 additional days are needed to finalize the reply. They argue that the requested 3 day extension will result in a more refined analysis. The "Aviation Parties" also believe that the requested extension is of such short duration that it is unlikely to delay the Commission's decision in this proceeding.

3. We believe that it is in the public interest to develop as complete a record as possible in this proceeding. We also agree with the petitioner that the brief time involved here would not delay the Commission's decision. For these reasons we are granting an extension of time. Hence, IT IS ORDERED that the period for filing reply comments IS EXTENDED to February 26, 1988.

4. This action is taken pursuant to authority found in Section 4(i), 302, and 303 of the Communications Act of 1934, as amended, 47 USC Sections 154(i), 302, and 303, and pursuant to Sections 0.31 and 0.241 of the Commission's Rules.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 85-166

In the Matter of

Investigation of Phase III, Part 1
Special Access Tariffs of
Local Exchange Carriers

ORDER

Adopted: February 26, 1988 ; Released: February 29, 1988

By the Chief, Common Carrier Bureau:

1. On January 15, 1988, this Bureau released an Order[1] requiring the Bell Operating Companies (BOCs) to calculate refunds due Other Common Carriers (OCCs) of charges for special access services for the period November 13, 1984 through June 3, 1985, and directing the BOCs to file this information, including the supporting data, not later than February 29, 1988. The NYNEX Telephone Companies (NYNEX), Southwestern Bell Telephone Company (Southwestern), and the Ameritech Operating Companies (Ameritech) have filed a joint motion requesting an extension of time, until March 30, 1988, to file the information requested by this Bureau.[2] US West has filed a motion for extension of time, until June 1, 1988, to file the requested information.[3] Comments in support of the motion filed by NYNEX, Southwestern, and Ameritech were filed by the Pacific Telesis, BellSouth, and Bell Atlantic companies on February 22, 1988.

2. NYNEX, Southwestern, Ameritech, and US West all generally argue that their data collection efforts have been difficult and time-consuming because, *inter alia*, much of the requested data must be gathered manually. Joint Motion at 2; US West Motion at 4. Additionally, they assert that their calculations with respect to all OCCs must be done manually, and that they must separately quantify the special access charges paid by those carriers not party to the Docket 20099 Settlement Agreement. Joint Motion at 3; US West Motion at 4. US West asserts that its data calculations are complicated by the fact that numerous systems were used to bill the OCCs, and therefore, additional time is needed for its service representatives to examine each bill to provide the requested data. US West Motion at 4-5. NYNEX, Southwestern, and Ameritech contend that an extension of time will allow Bell Communications Research, Inc. to complete an industry compilation of data which will aid the BOCs in formulating their comments. Joint Motion at 3. Finally, NYNEX, Southwestern, Ameritech, and US West argue that the public interest would be served by granting them additional time to submit the most accurate data quantification available. Joint Motion at 3; US West Motion at 6-7.

3. We find that NYNEX, Southwestern, Ameritech, and US West have shown good cause for extending the deadline for complying with the *January 15 Order*. We will therefore grant all BOCs an extension of time until June 1, 1988, to submit the information requested by our Order. Comments on the BOC submissions may be filed not later than **June 30, 1988.** Reply comments may be filed not later than **July 14, 1988.**

4. Accordingly, IT IS ORDERED that the motions for extension of time of the NYNEX Telephone Companies, Southwestern Bell Telephone Company, Ameritech Operating Companies, and US West ARE GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

FOOTNOTES

[1] Investigation of Special Access Tariffs of Local Exchange Carriers, CC Docket No. 85-166, Phase III, Part 1, Order Inviting Comments and Requesting Data, 3 FCC Rcd 176 (1988) (*January 15 Order*).

[2] NYNEX, Southwestern Bell, and Ameritech Motion for Extension of Time, filed Feb. 18, 1988 (Joint Motion).

[3] US West Motion for Extension of Time, filed Feb. 23, 1988 (US West Motion).

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 88-57

In the Matter of

Review of Sections 68.104 and
68.213 of the Commission's Rules
Concerning Connection of
Simple Inside Wiring
to the Telephone Network

and

Petition for Modification of RM-5643
Section 68.213 of the Commission's
Rules filed by the Electronic
Industries Association

NOTICE OF PROPOSED RULE MAKING

Adopted January 29, 1988; Released: March 8, 1988

By the Commission:

1. Section 68.213 of the Commission's rules, 47 C.F.R. § 68.213, authorizes telephone subscribers, subject to certain restrictions and responsibilities, to install and connect simple inside wiring to the telephone network. The Commission is issuing this Notice of Proposed Rule Making to determine whether some of the present restrictions applicable to such wiring should be modified or removed. In addition, before the Commission is a petition for Rule Making, RM-5643, filed by the Electronic Industries Association, Residential Communications Section, User Premises Equipment Division (EIA) requesting that the Commission initiate a rule making proceeding to require that plugs and jacks used in simple inside wiring conform to technical specifications for plugs and jacks set forth in Subpart F of Part 68 of the Commission's rules, 47 C.F.R. Part 68, Subpart F. Comments in support of the EIA petition have been filed by the Bell Atlantic Telephone Companies (Bell Atlantic), GTE Service Corporation (GTE), the American Telephone and Telegraph Co. (AT&T), and the United States Telephone Association (USTA). For the reasons stated below, we grant the EIA petition, and initiate the requested rule making.

BACKGROUND

2. Part 68 of the Commission's rules governs the terms and conditions for connection of customer provided terminal equipment and wiring to the telephone network. Part 68 is designed to assure consumers, manufacturers and carriers that terminal equipment and wiring may be connected to the telephone network without causing harm. *See* 47 C.F.R. § 68.1. Section 68.104 of the rules, 47 C.F.R. § 68.104, provides that all connections to the network shall be made through the standard plugs and standard telephone company-provided jacks described in Subpart F of Part 68.[1] The technical specifications in Subpart F concern dimensions, gauging, materials, wiring, manufacturing processes, and spring tensions. Among the requirements is that in 6 and 8 pin jacks the contact interface should be hard gold to hard gold and should have a minimum gold thickness of 0.000050 inch on each side of the interface or the "functional equivalent".

3. The Commission has found that customers should be permitted to install their own simple inside wiring.[2] In *First Report and Order*, CC Docket 81-216, 97 FCC 2d 527 (1984), *stay denied*, *Order*, FCC 84-546, released November 20, 1984, *recon. granted in part*, *Section 68. 213 Reconsideration Order*, 50 Fed. Reg. 29384 (1985), the Commission concluded, *inter alia*, that "the likelihood that one and two-line wiring will be improperly installed, causing network harm, is not substantial," 97 FCC 2d at 535, and adopted Section 68.213 of the rules. Customers were permitted to connect one and two-line business and residential wiring to the network, subject to certain restrictions and responsibilities. The Commission also established a definition for the network interface or demarcation point,[3] to serve generally as the point for bifurcating carrier and non-carrier responsibilities. Wiring on the carrier side of the network interface would be the responsibility of the carrier, and wiring on the customer side of the network interface would be the responsibility of its owner. The Commission extended to customer-provided inside wiring the preexisting requirement of Section 68.104 that all connections to the network must be made through a carrier-installed jack. *Id.* 540-542; *Section 68. 213 Reconsideration Order*, n. 35. Thus, stated the Commission, the inside wiring program "contemplates that new premises wiring, as well as additions and modifications to existing premises wiring, will be connected to the network through an already existing jack or telephone company installed demarcation jack." *Section 68. 213 Reconsideration Order*, para. 14. The Commission interpreted this requirement to preclude the customer or his agent from splicing into wiring installed by the carrier and installing a jack. *Order*, *supra*, para. 5; *Section 68. 213 Reconsideration Order*, para. 21. The Commission stated that requiring customer-provided inside wiring to be connected to the network through a carrier-installed jack would enable easy disconnection of inside wiring should harm occur, 97 FCC 2d at 541, and would also serve to accomplish the objective of limiting access to the protector on the carrier side of the demarcation point to the carrier (because a telephone company-installed jack at the demarcation point would always be interposed between the protector and customer-provided inside wiring.[4] 97 FCC 2d 540-542. The Commission determined, however, that the Part 68 program did not preclude states from creating more liberal, additional options for connection to the network, including customer access to the protector, as long as such options provide network protection. *Section 68. 213 Reconsideration Order*, para. 24. With respect to location and relocation of the network interface, the Commission stated that this should be performed by the carrier in accordance with non-discriminatory standard operating practices. *First Report and Order*, para. 24. The Commission placed other restrictions on inside wiring installations such as testing and material requirements. *See* paras. 13-20, *infra*.

4. In the *First Report and Order, supra*, the Commission deferred consideration of a request by AT&T that plugs and jacks used in conjunction with simple inside wiring (*i. e.* plugs and jacks on the customer's side of the demarcation point) be subject to regulatory standards:

> AT&T urges that we note in our definition of non-system wiring that passive devices used in wiring operations, such as connectors, blocks and jacks, are considered part of COPW and are included in Section 68.213 . . . . We are currently considering the deregulation of cords and other passive devices in RM-3227 in this docket . . . . Indeed, pending disposition of that rule making we have exempted cords and electrically transparent adapter boards from the registration program . . . . We therefore do not believe it appropriate to act upon AT&T's proposal at this time.

Id. n. 29. In *Third Report and Order*, CC Docket 81-216, 51 Fed. Reg. 929 (January 9, 1986), para. 11, the Commission, addressing RM-3227, eliminated all Part 68 registration requirements for cords, passive adapters, adapter boards and cross-connect panels as unnecessary regulatory requirements. However, the Commission did not address the issue raised by AT&T in connection with the *First Report and Order* of whether plugs and jacks on the customer side of the network interface or demarcation point should be required to conform to Subpart F.

5. In the *Second Report and Order* CC Docket 79-105, 51 Fed. Reg. 8498 (1986),(*Inside Wiring Detariffing Order*), *recon. in part, Inside Wiring Reconsideration Order, supra*, n. 1, *further recon. pending, petition for review pending sub nom. NARUC v. FCC*, Case No. 86-1687 (D.C. Cir. December 11, 1986), the Commission determined, *inter alia*, that the installation and maintenance of simple inside wiring would be preemptively detariffed as of January 1, 1987. In detariffing those services, the Commission stated that it did not believe that any new requirement with respect to the installation of standard jacks was necessary at that time. *Inside Wiring Detariffing Order, supra*, para. 41. The Commission initially required telephone companies to relinquish their claims to ownership of inside wiring. *Id.* paras. 52, 57. However, in the *Inside Wiring Reconsideration Order*, the Commission decided that less intrusive measures would be sufficient to accomplish the purposes behind the relinquishment requirement. Specifically, the Commission prohibited carriers from using claims of ownership of inside wiring as a basis for restricting the removal, replacement, rearrangement or maintenance of inside wiring that had ever been installed or maintained under tariff. *Id.* at paras. 34-35, 43. The Commission's policy objectives in taking these actions were to increase competition in the provision of installation and maintenance of inside wiring, to promote new entry into the inside wiring market, to produce cost savings for rate payers, and to create an unregulated competitive marketplace environment for the development of communications.

EIA PETITION AND COMMENTS

6. EIA states that the inapplicability of the electrical, physical and mechanical requirements of Subpart F to plugs and jacks used in simple inside wiring creates a risk of harm to the telephone network. Use of inferior contact material in a jack, it states, can lead to contact corrosion and contact bridging. This can cause shorts between tip and ring in a single line jack which could "seize and tie up central office equipment," EIA contends. Petition, p. 6. It alleges that substandard jacks may cause "resistive shorts" which might be misinterpreted by some central office equipment as a resistive tip mark used in some carrier systems for party line identification, resulting in billing errors. Corrosion in a two-line jack can cause longitudinal imbalance and the possibility of cross-talk between lines, EIA additionally alleges. It states that failure to meet the mechanical requirements of Subpart F may prevent jacks from fitting properly or being disconnected easily. Apart from network harm issues, EIA urges that defective jacks can lead to failure or degradation of service, unavailability of service during an emergency, and complaints to carriers and associated administrative costs. It claims that all of these potential problems are likely to be exacerbated by the Commission's decision to deregulate the installation and maintenance of simple inside wiring. *Inside Wiring Detariffing Order, supra*. For these reasons, it urges the Commission to modify Section 68.213 to require that all plugs, jacks and connectors used in simple inside wiring be required to conform to the technical specifications in Subpart F. However, it does not propose any registration requirement for plugs and jacks. Instead, it should be sufficient to require that manufacturers attest to the Commission in writing that plugs and jacks manufactured by them conform to Subpart F, states EIA.

7. In its comments, AT&T states that EIA has accurately described possible harmful consequences arising from use of jacks in simple inside wiring not complying with Subpart F and supports the proposed rule change. In addition, it urges that the "or equivalent" language in Subpart F with respect to gold plating be deleted. It states that gold is a unique electricity conducting material in that it will not corrode due to environmental conditions or from contact with other metals. It observes that the gold-to-gold contact has been an industry standard for many years, that there is no longer a gold shortage as there was at the time Subpart F was adopted, and that the industry has found ways to meet the present gold contact requirement while reducing the actual gold content by 90 percent. Accordingly, the Commission should prescribe gold as the only permissible contact material, AT&T argues.

8. AT&T also urges that manufacturers of extension cords be required to attest to the Commission in writing that their products comply with the technical standards of Sections 68.304(a) and 68.302(b).[5] (Extension cords are currently required to comply with the requirements of those sections, but there is no attestation requirement.) AT&T argues that an attestation requirement similar to that required for manufacturers of inside wiring, *see* para. 22, *infra*, will provide additional assurance against faulty extension cords which can cause shorts, longitudinal imbalance and cross talk.

9. Finally, AT&T calls the Commission's attention to *Order*, 50 Fed. Reg. 27250 (1985), in which the Commission adopted editorial and minor amendments to the technical specifications of Subpart F. There, the Commission did not specify a date certain when the revised specifications would become required for new products; the Commission stated that the Subpart F specifications would be applicable to new products as existing inventories were drawn down. AT&T argues that ample time has elapsed

for manufacturers to draw down inventories and that the Commission should provide that these specifications are required as of the present time.

10. For its part, GTE states that it has investigated the use of nonconforming plugs and jacks and has discovered that such equipment is being used and is causing the types of problems described above, although it is unable to quantify how much nonconforming hardware is being used. It claims that more nonconforming equipment can be anticipated to be used because of its lower price and because of the Commission's decision to detariff the installation and maintenance of inside wiring in CC Docket 79-105. GTE also contends that the EIA proposal should be adopted because it would help achieve the Commission's policy of allowing easy disconnection of faulty terminal equipment and inside wiring, *i. e.*, faulty jacks may not permit such easy disconnection. It also agrees that poor quality jacks may prevent use of telephone service during an emergency. Therefore, GTE urges the Commission to issue a notice of proposed rule making on the EIA proposal with the modification, however, of a six-month transition period after which all new installations of plugs and jacks used in simple inside wiring would be required to conform to Subpart F.

11. Bell Atlantic and USTA similarly contend that EIA has correctly identified potential network harms from substandard plugs and jacks. They claim that the proposed standards would not be unduly burdensome on manufacturers or users and would lead to more reliable and satisfactory telephone service.

DISCUSSION

12. Part 68 restrictions should be minimally burdensome on the customer's ability to connect equipment to the telephone network consistent with protecting the telephone network from harm caused by such customer connection. *Fourth Report and Order*, Docket Nos. 19528, 20774 and 21182, 70 FCC 2d 1800 (1979); *First Report and Order*, CC Docket 79-143, 76 FCC 2d 246 (1980). Carriers generally have the burden of showing that particular Part 68 restrictions are necessary for network protection. *Id.* As indicated, the Commission believed in 1984 that customer inside wiring operations performed under Section 68.213 pose little risk of network harm. *First Report and Order*, 97 FCC 2d at 535. Our experience since 1984 has confirmed the accuracy of that finding, and we are concerned that the restrictions set forth in Sections 68.104 and 68.213 may no longer be necessary for network protection. Accordingly, we are initiating this proceeding to ascertain whether all the current requirements for simple inside wiring should be retained. We will examine in turn the various requirements under Section 68.104 and 68.213 governing connection of simple inside wiring to the network and propose modification and/or elimination of those we believe do not continue to be necessary to protect the network from harm. We will then address the EIA petition for rule making.

13. *Jack Requirement.* Section 68.104 requires that connections to the telephone network shall be through a carrier-installed jack. This section has been previously interpreted by the Commission to require that inside wiring be connected to the network through a carrier-installed jack, *Section 68. 213 Reconsideration Order*, *supra*, and the Commission has determined that customers may not have direct access to the protector and other portions of the telephone network. *Id.* ; *Order*, *supra*. This lack of access was designed to assure that the carrier would continue to be responsible for the integrity of the protector and its associated grounding, and to establish a uniform, ready means of disconnection of trouble-causing inside wiring from the telephone network.[6] On the other hand, the Commission's inside wiring detariffing orders have made clear the Commission's intention to provide consumers with as much flexibility as possible in determining how to meet their inside wiring installation and maintenance requirements. *Inside Wiring Reconsideration Order*, *supra*, para. 35. We are concerned that requiring a telephone company-installed jack may be causing consumers unnecessary costs as they install, modify and use wiring and other equipment in ways that may be privately beneficial. We believe that it may be possible to achieve our objectives without requiring a carrier-installed jack. For example, simply prohibiting access to the protector and its associated grounding combined with carrier-sponsored consumer education programs might be adequate to assure that consumers will not access the protector. Similarly, permitting the customer to install a jack at locations up to and including the network interface would allow for easy disconnection of subsequently installed or existing inside wiring without compromising the carrier's responsibility for the integrity of the protector.

14. Accordingly, we propose an amendment to Section 68.104 that would permit customers and their agents to connect simple inside wiring to the telephone network by severing carrier-installed wire and installing a standard jack described in Subpart F.[7] Thus, in a situation where the wiring on the customer's premises was installed by the carrier the customer would be permitted by our proposed Section 68.104 to connect to the network by installing a jack, including the network interface jack, or its functional equivalent. Comments favoring retention of the present requirement for a carrier-installed jack at the network interface should fully demonstrate and support that customer access to carrier-installed wiring and installation of a standard jack poses significant risk of network harm and is publicly detrimental.[8] In this connection, the Commission is aware that at least some carriers are already permitting non-carrier personnel to install network interface jacks.

15. In our earlier wiring orders, we found that the private benefits derived from permitting customers to access the protector and its associated grounding were exceeded by the public detriments of increased risk of harm to persons and property. In view of our proposals herein, it is appropriate that we also revisit this analysis as it applies to customer access to the protector and its grounding. While we do not necessarily intend to alter the current policy on this matter, we seek public comment on it, and we ask all interested parties to reevaluate the need to reserve protector access to the local telephone companies. Interested parties should also comment on the extent to which any of our rule proposals including jack installations or protector access, necessitate amendment of other rules, notably our definition of the network interface or demarcation point. Parties may also wish to comment on whether the changes discussed in this Notice of Proposed Rule Making should be accompanied by amendments to our accounting rules.

16. *Acceptance Testing.* Section 68.213(f), 47 C.F.R. § 68.213(f), requires certain tests to be performed on simple inside wiring whenever any installation, reconfiguration,

or removal (other than final removal) is performed. The rule requires the installation to be tested by attempting to break dial tone, getting the telephone company or other party to call the customer to see if the telephone will ring, and listening for unusual tones or hums on the line. Inside wiring which does not pass these tests is required to be disconnected and not reconnected until the cause of the failure is identified and removed.

17. The current acceptance testing requirements were intended to assure that only correctly installed wiring remains connected to the network. However, we believe that consumers and telephone companies are now aware that it is advisable to test an installation to see if it is correctly installed. Thus, the present requirement in our rule imposing a testing requirement may no longer be necessary. Accordingly, we are proposing for comment elimination of the requirement that the customer test simple inside wiring.

18. *Extraordinary Procedures.* Section 68.213(g), 47 C.F.R. § 68.213(g), authorizes carriers to invoke certain specified extraordinary procedures where there is reason to believe that a violation of Part 68 is likely to occur, where a failure of acceptance testing has occurred, or where harm has occurred. The carrier is authorized when one of these conditions is present to require use of a protective apparatus by the customer and to inspect the wiring including if necessary withdrawal of all wiring including that concealed in ducts, conduit or behind walls. In addition, the carrier may participate in acceptance testing even when those conditions are not present. We believe that some of these extraordinary procedures might have the effect of inhibiting customer installation of simple inside wiring and/or may be more burdensome on the customer than necessary to protect the network from harm. Accordingly, we propose and offer for comment deletion of Section 68.213(g). However, we believe that carriers should continue to be able to take protective measures when harm to the network originates from the customer's premises whether from inside wiring or other sources. Section 68.108 of the rules, 47 C.F.R. § 68.108, currently authorizes the carrier to temporarily terminate service in the event that terminal equipment causes network harm, even without prior notice to the customer, if such action is reasonable under the circumstances. We propose amendment of Section 68.108 to provide that harm arising from inside wiring operations may also warrant temporary discontinuance of service. Any carriers opposing these proposals should document experiences where invocation of extraordinary procedures has been necessary.

19. *Notice to the telephone company.* Section 68.213(e) requires customers, upon request of the carrier, to provide the carrier with a description of the location of jacks installed, a statement that building and electrical codes are being complied with and information on the wiring employed, among other information. We believe this provision is reasonable. Accordingly, we do not propose to modify or eliminate it at this time. However, we solicit comments from carriers as to whether they find it useful, particularly if our other proposals herein are adopted. Based upon our analysis of the comments, the Commission may choose to eliminate Section 68.213(e).

20. *Wiring Authorized.* Section 68.213(b) authorizes customers to use simple inside wiring for connection of units of terminal equipment to each other and to the network. It provides that responsibility for the protector rests with the telephone company but that the subscriber is responsible for the consequences for erroneous wiring operations performed by the subscriber. It states that responsibility for wiring on the subscriber's side of the network interface rests with the owner of such wiring. It also states that the serving telephone company shall not discriminate in the treatment of demarcation point location and relocation.

21. We are taking this opportunity to propose some clarifications to the language of this rule section. As indicated, the Commission in CC Docket 79-105 has prohibited carriers from installing or maintaining inside wiring as a regulated service, while at the same time allowing carriers to retain ownership of inside wiring previously installed by them. We have proposed that the customer be permitted to install a jack at the network interface in wiring which may be owned by the carrier. We believe that we should therefore modify the current statement in Section 68.213(b) that responsibility for wiring on the customer's side of the interface rests with the owner of that wiring. Rather, that section should indicate that responsibility for installation and maintenance of wiring on the customer's side of the interface rests with the customer, or premises owner, even if the carrier retains legal title to such wiring. Further, in view of our other proposed rules changes, we believe that Section 68.213(b) should be clarified to provide that either (1) the customer may not access the protector and associated grounding, or other equipment on the carrier's side of the network interface, or (2) the terms and conditions of such access, if the Commission determines to permit customer access to the protector. *See* para. 15, *supra.*

22. *Material Requirements and Attestation.* Section 68.213(c), 47 C.F.R. § 68.213(c), requires that wire used for simple inside wiring have insulation around each conductor with a 1500 Volt breakdown rating. This requirement was adopted because inadequately insulated wire if it comes in contact with high voltages has the potential to cause severe harm to the network, to carrier personnel, and the customer. *First Report and Order*, para. 73. Section 68.213(d), 47 C.F.R. § 68.213(d), requires that the manufacturer, distributor, or retailer of the wire attest to the Commission in a letter that the wire conforms to this requirement. These attestations are available for inspection at the Commission's public reference room, Room 6220, 2025 M. Street, N.W. Washington, D.C. The Commission has not been informed that the attestation requirement for inside wire is unreasonable or creates unacceptable burdens for manufacturers. However, comments on whether this requirement should be retained are solicited in accordance with the Commission's discussion, para. 25, *infra*, of the related issue of attestation requirements for cords and passive adapters.

23. *EIA Petition for Rule Making.* In its petition for rule making EIA requests that the Commission require that all plugs and jacks used in connection with simple inside wiring conform to the technical specifications in Subpart F of Part 68. According to EIA, only the jack at the network interface is required to conform to these technical specifications. EIA's conclusion apparently comes from its interpretation of Section 68.104 ("all connections to the telephone network shall be made through the standard plugs and standard telephone company provided jacks, or equivalent, described in Subpart F . . . ") and Subpart F ("[t]he plugs and jacks described in this section represent the standard connectors to be used for connections to the telephone network.") EIA's interpretation is not correct.

While the CC Docket 81-216 decisions did not explicitly state that all jacks used in inside wiring must conform to Subpart F, it was not the Commission's intent to permit installation of jacks not so conforming. As the commenters demonstrate, the detariffing of installation and maintenance of inside wiring makes material requirements for jacks and wiring of even greater relative importance in preventing network harm. Accordingly, we do not accept EIA's interpretation that jacks used in simple inside wiring are not required to conform to Subpart F. However, EIA's petition suggests that the current Section 68.104 may not be sufficiently clear on this point. Accordingly, we will offer for comment the EIA proposal in order to remove any ambiguity in the present wording of that rule section.

24. AT&T contends that the "or equivalent" language in Subpart F be eliminated to make gold the only permissible contact material for plugs and jacks at the network interface. The current language of the rule potentially provides flexibility in making adequate connections to the network and, because alternatives to gold must provide equivalent, reliable performance, the current rule provides for adequate network protection concerning connections at the network interface. However, we believe that Subpart F could be clarified by specifying precisely the alternatives to gold; or if there are not genuine alternatives to gold, as suggested, by deleting the equivalency language. We solicit comments from carriers and manufacturers, especially clearly defined technical alternative specifications to gold, if feasible, so that the Commission will be able to make the best decision on this issue. Parties are also asked to provide statistics regarding the incidence of harm from "or equivalent" jacks.

25. AT&T contends that the Commission should require an attestation of compliance with the leakage current specifications of Section 68.302(b) and the temperature/humidity tolerances of Section 68.304(a) for cords and passive adapters similar to that for telephone wire under Section 68.213(d). Telephone wire used on the customer's premises carries a greater potential for network harm than do extension cords and passive adapters in that wire is frequently concealed behind walls making relatively difficult diagnosing and correcting any network harm or electrical hazards originating from, or associated with, the inside wire. Defects in cords and passive adapters, by contrast, are readily observable, and a defective device is easily replaced. Therefore, the potential for electrical hazard or network harm originating from them is less than from inside wire. The attestation requirement for wire, and its greater assurance of compliance with the applicable material requirements for it under Part 68, has until this time been justified by this greater potential for electrical hazard or harm. *First Report and Order*, para. 76. However, the Commission has determined that it will undertake in connection with the instant proceeding a review of attestation requirements for these electrically passive devices and telephone wire. If it appears on the basis of the comments, the Commission's experience under the inside wiring program, or of other information available to the Commission, that manufacturers are fully complying with material requirements for cords and passive adapters without attestation, then there could be grounds for concluding that there may be compliance with the material requirements for inside wire without the present attestation requirement for it under Section 68.213(d). Thus, it may be possible to eliminate it as an unnecessary regulatory requirement. On the other hand, the Commission reserves the possibility of retaining the present treatment of wire, cords and passive adapters with respect to attestation, or of creating an attestation requirement for cords and adapters, if warranted. We observe that at this stage of this proceeding, AT&T has failed to show, such as by information that manufacturers of extension cords and passive adapters are not complying with the material requirements for them under Part 68, that an attestation requirement is necessary for these devices. Comment on all these issues is solicited; support for any attestation requirement should include specific reasons for attestation, technical data and secondary technical references.

26. Finally, the Commission does not agree that the revised Subpart F specifications called to our attention by AT&T should be determined to be applicable at this time to the exclusion of the previous Subpart F specifications. It is possible that inventory of jacks conforming to the previous Subpart F jacks may still exist. However, we believe that a final date should be specified. Accordingly, we propose that newly installed jacks will be required to comply with the revised Subpart F specifications as of July 1, 1988.

REGULATORY FLEXIBILITY ACT INITIAL ANALYSIS.

27. *Reason for Action*. The Commission is issuing this Notice of Proposed Rule Making to eliminate potentially unnecessary regulatory requirements regarding connection to the telephone network of wiring and jacks installed by the telephone subscriber or his agents.

28. *Objectives*. The objective of this Notice of Proposed Rule Making is to provide an opportunity for public comment and to provide a record for a Commission decision on the issues stated above.

29. *Legal Basis*. The Communications Act of 1934, as amended, 47 U.S.C. §§ 151 *et seq*.

30. *Description, potential impact and number of small entities affected*. Elimination of current requirements regarding installation of telephone wiring and jacks by the telephone subscriber and his agents will reduce regulatory requirements on telephone subscribers and small entities employed by them to perform such installations.

31. *Recording, recordkeeping and other compliance requirements* : None.

32. *Federal rules which overlap, duplicate or conflict with the Commission's proposal* : None.

33. *Any significant alternatives minimizing impact on small entities and consistent with stated objective*. None.

34. *Comments are Solicited*. Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to this regulatory flexibility analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act. 5 U.S.C. § 601, *et. seq*.

EX PARTE PRESENTATIONS

35. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period. *See generally* Section 1.1206(a). The Sunshine Agenda period is the period of time which commences with the release of a public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. Section 1.1202(f). During the Sunshine Agenda period, no presentations, *ex parte* or otherwise, are permitted unless specifically requested by Commission or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding. Section 1.1203. In general, an *ex parte* presentation is any presentation directed to the merits or outcome of the proceeding made to decision-making personnel which (1), if written, is not served on the parties to the proceeding, or (2), if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. Section 1.1202(b). Any person who submits a written *ex parte* presentation must provide on the same day it is submitted a copy of same to the Commission's Secretary for inclusion in the public record. Any person who makes an oral *ex parte* presentation that presents data or arguments not already reflected in that person's previously-filed written comments, memoranda, or filings in the proceeding must provide on the day of the oral presentation a written memorandum to the Secretary (with a copy to the Commissioner or staff member involved) which summarizes the data and arguments. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. Section 1.1206.

36. The Acting Secretary shall cause a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. § 603(a) (1981). The Secretary shall also cause a summary of this Notice to appear in the Federal Register.

37. In accordance with the applicable procedures set forth in Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, interested parties may file comments on or before **April 29, 1988,** and reply comments on or before **May 16, 1988.** All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file and provided that the Commission's reliance on such information is noted in the Report and Order.

38. Interested parties shall file an original and 5 copies of all comments, replies, or other documents. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the public who wish to express their interest by participating informally in the rule making proceeding may do so by submitting one copy of the comments provided that the docket number is specified in the heading. All filings in this proceeding will be available for public inspection by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C. For general information on how to file comments, parties should contact the FCC Consumer Assistance and Information Division at (202) 632-7000.

39. Accordingly, pursuant to Sections 1, 4, 201-205, 215, 218 220, 313, 309(e)-(h), 405 and 412 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201-205, 215, 218, 220, 313, 309(e)-(h), 405, and 412, and 5 U.S.C. § 553, NOTICE OF PROPOSED RULE MAKING IS PROVIDED to amend 47 C.F.R. Part 68 as indicated above.

40. IT IS ORDERED, That the Petition for Rule Making, RM-5643, filed by the Electronic Industries Association IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

APPENDIX

It is proposed to amend Part 68 of the Commission's Rules and Regulations (Chapter I of Title 47 of the Code of Federal Regulations, Part 68), as follows:

1. The authority citation for Part 68 continues to read:

AUTHORITY: 47 U.S.C. 154, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602, unless otherwise noted.

2. Section 68.104, 47 C.F.R. § 68.104, is amended to revise paragraph (a) to read as follows:

§ 68.104 Means of Connection.

(a) General. Except for telephone company-provided ringers and except as provided in paragraph (c), all connections to the telephone network shall be made through the standard plugs and jacks, or equivalent, described in Subpart F, in such a manner as to allow for easy and immediate disconnection of the terminal equipment or wiring. Standard jacks shall be so arranged that, if the plug connected thereto is withdrawn, no interference to the operation of the equipment at the customer's premises which remains connected to the telephone network shall occur by reason of such withdrawal.

* * * * *

3. Section 68.108, 47 C.F.R. § 68.108, is revised to read as follows:

§ 68.108 Incidence of Harm.

Should terminal equipment, inside wiring, plugs and jacks, or protective circuitry cause harm to the telephone network, the telephone company shall, where practicable, notify the customer that temporary discontinuance of service may be required; however, wherever prior notice is not practicable, the telephone company may temporarily discontinue service forthwith, if such action is reasonable under the circumstances. In case of such temporary discontinuance, the telephone company shall (a) promptly notify the customer of such temporary discontinuance, (b) afford the customer the opportunity to correct the situation which gave rise to the temporary discontinuance and (c) inform the customer of his right to bring a complaint to the Commission pursuant to the procedures set forth in Subpart E of this part.

4. Section 68.213, 47 C.F.R § 68.213, is amended to revise paragraphs (a) and (b) to read as follows, and to delete paragraphs (f) and (g):

§ Section 68.213 Installation of other than "fully protected" ***non - system simple customer premises wiring.***

(a) Scope. Provisions of this rule are limited to "unprotected" premises wiring used with simple installations of wiring for one and two-line residential and business telephone service. Unprotected premises wiring is wiring which is not located electrically behind apparatus which protects against hazardous voltages and imbalance. More complex installations of wiring for multiple line services, for use with systems such as PBX and key telephone systems, are controlled by § 68.215 of these rules.

(b) Wiring Authorized.

(1) Unprotected premises wiring may be used to connect units of terminal equipment or protective circuitry to one another, and to the network interface (or demarcation point), if installed in accordance with these rules. Telephone customers and/or premises owners, and their agents, may additionally directly access, mechanically and electrically, carrier-installed wiring up to and including the demarcation point and install standard jacks described in Subpart F. Responsibility for wiring on the subscriber's side of the demarcation point, including any wire or jacks that may have been installed by the carrier and may continue to be owned by the carrier, rests with the subscriber and/or premises owner. Responsibility for carrier facilities and wiring to which the customer is not permitted access rests with the carrier. The customer or premises owner may not access carrier wiring and facilities on the carrier's side of the demarcation point except that access to the protector and associated grounding is permitted in accordance with the carrier's reasonable and nondiscriminatory standard operating practices.

* * * * *

FOOTNOTES

[1] Section 68.104(a) of the rules, provides:

> Except for telephone company-provided ringers and except as provided in paragraph (c), all connections to the telephone network shall be made through the standard plugs and standard telephone company-provided jacks, or equivalent, described in Subpart F, in such a manner as to allow for easy and immediate disconnection of the terminal equipment. Standard jacks shall be so arranged that, if the plug connected thereto is withdrawn, no interference to the operation of equipment at the customer's premises which remains connected to the telephone network, shall occur by reason of such withdrawal.

Section 68.104(c) provides for tariff descriptions of plug and jacks. In *Order*, FCC 84-546, released November 20, 1984, the Commission rejected the claim that the "or equivalent" language of Section 68.104 would permit non-telephone company personnel to install a standard jack through which customer-provided inside wiring would be connected to the telephone network. The Commission referred to the report and order adopting that language that indicated that its purpose was to permit continued connection to the network of jacks already in place which did not conform to subpart F. *Connection of Terminal Equipment to the Telephone Network*, 62 FCC 2d 735, 739 (1976). *See also*, *Memorandum Opinion and Order*, 59 FCC 2d 83, 87 (1976).

[2] The Commission has defined inside wiring as the customer premises portion of telephone plant which connects station components to each other and to the telephone network. *Inside Wiring Reconsideration Order*, 1 FCC Rcd 1190, 1197 n. 1, *further recon. pending, petition for review pending sub nom., NARUC v. FCC*, Case No. 86-1687 (D.C. Cir. Dec. 11, 1986). Together with customer premises equipment (CPE), inside wiring constitutes all telephone plant located on the customer's side of the demarcation point marking the end of the telephone network. *Id.* Simple inside wiring is wiring used for one or two lines. Complex wiring, also referred to as intrasystem wiring, is used for more than two lines usually in association with PBX or key system equipment. *Id.* n 3. Section 68.213 refers to simple inside wiring as "non-system premises wiring". In other decisions the Commission has referred to simple inside wiring as "customer-owned premises wiring" (COPW). *See, e. g.*, decisions cited in para. 3, *infra*. In Account 2321 of the new Uniform System of Accounts, 47 C.F.R. § 32.2321, inside wiring is referred to as "customer premises wiring". In this decision we will use the term "simple inside wiring" to refer to all one and two line telephone wiring (including the associated jacks) on the customer's side of the demarcation point whether owned and installed by the customer or premises owner, or their agent, or previously installed and maintained by the carrier under tariff, *i. e.*, detariffed inside wiring. Section 68.215 governs connection of complex wiring to the telephone network.

[3] Section 68.3 of the rules, 47 C.F.R. § 68.3, defines network interface as:

> *Network interface or demarcation point* : The point of interconnection between telephone company communications facilities and terminal equipment, protective apparatus or wiring at a subscriber's premises. The network interface or demarcation point shall be located on the subscriber's side of the telephone company's protector, or the equivalent thereof in cases where a protector is not

employed, as provided under the local telephone company's reasonable and nondiscriminatory standard operating practices.

[4] The Commission had determined that "access to the protector poses a potential harm to the network that justifies, as a federal minimum, reserving access to the protector on the telephone company side of the demarcation point to the telephone company alone." *Section 68. 213 Reconsideration Order*, para. 21.

[5] Section 68.304(a), 47 C.F.R. § 68.304(a) prescribes leakage current specifications. Section 68.302(b), 47 C.F.R. § 68.302(b), prescribes temperature/humiditytolerances.

[6] The protector prevents voltage pulses above specified levels, such as can be caused by contact between outdoor telephone cable and electric power cable, from being transmitted into the customer's premises. It also prevents voltage pulses originating on the customer's premises from entering the network.

[7] We are not proposing at this time any change in the requirements for complex wiring, *i. e.*, more than two lines, the installation of which by the customer is governed by Section 68.215, 47 C.F.R. § 68.215. See n. 2. *supra*.

[8] As indicated, para. 5, *supra*, the Commission in detariffing the installation and maintenance of simple inside wiring determined that it would not adopt any new jack or interface requirements for such wiring and no special provisions or exceptions were created. Thus, when a carrier is employed by the customer, on an unregulated basis, to install and/or maintain simple inside wiring, the carrier is, and would be under our proposal, subject to the same Part 68 installation requirements as would be the customer. Under the present Section 68.104(b), wiring installed by the carrier as an unregulated activity must be connected to the network through a carrier-installed jack, as part of its regulated activity, and the accounting treatment for this carrier-installedjack will be the same as if the customer intended to install the inside wiring. Restraints on unreasonable discrimination would additionally limit favorable modes of interconnection provided to carrier deregulated activities. See 47 U.S.C § 202(a).

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: February 26, 1988

COMMON CARRIER DOCKET NO. 88-095
ESTABLISHED FOR COMSAT REFUND
IMPLEMENTATION
PLEADING CYCLE ESTABLISHED

By Memorandum Opinion and Order released today (DA 88-238), the Chief, Common Carrier Bureau, established a separate docketed proceeding to consider issues arising from the implementation of refund obligations imposed on Communications Satellite Corporation (Comsat) by the Commission's Order in CC Docket Nos. 80-634 and 85-268 (FCC 87-388, released Jan. 28, 1988).

The action establishing CC Docket No. 88-095 came in response to a petition filed by Comsat seeking postponement of the effective date of the Commission's Order. Comsat urged that any partial disbursements of its refund obligation, which has already been deposited in an escrow account, should not be required until the method of distributing refunds among all customers has been determined.

Interested parties may file comments on flow-through issues and other aspects of the refund disbursement process no later than March 11, 1988. Replies may be filed no later than **March 25, 1988.**

Copies of the Bureau's Order establishing this docket may be obtained from the Commission's contract copier, International Transcription Service, Inc. (ITS), Room 246, 1919 M Street, N.W., Washington, D.C. 20554. A copy of the Order is also on file and available for public inspection in the Tariff Division, Common Carrier Bureau, Room 518, 1919 M Street, N.W. An original and five copies of all comments and replies must be filed, in accordance with Section 1.51(c) of the Commission's Rules. In addition, one copy of each comment or reply must be filed with ITS.

For further information, contact Stan Wiggins, Tariff Division (202) 632-6917.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: February 18, 1988

STEERING COMMITTEE TO THE FCC ADVISORY COMMITTEE ON ADVANCED TELEVISION SERVICE MEETING

1. A meeting of the Steering Committee to the FCC Advisory Committee on Advanced Television Service will be held on:

March 10, 1988

9:30 A. M.

Commission Meeting Room (Room 856)
1919 M Street, N.W.
Washington, D.C. 20554

2. The agenda for the meeting will consist of:

a. Approval of minutes of first meeting
b. Progress reports by Subcommittee chairmen
c. Working party organization and personnel matters
d. Special reports
-- Funding proposal/guidelines
-- Document numbering
e. Report on anticipated work of ATSC and the Broadcast Technology Center
f. Other business
g. Date and location of next full Advisory Committee meeting
h. Date and location of next Steering Committee meeting
i. Adjournment

3. All interested persons are invited to attend.

4. Those interested may also submit written statements at the time of the meeting. Oral statements and discussion will be permitted under the direction of the Steering Committee Chairman.

5. Any questions regarding this meeting should be directed to William Hassinger at (202) 632-6460, or Steve Bailey at (202) 632-5414.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 80-634
and 85-268

In the Matter of

COMMUNICATIONS SATELLITE CORPORATION — Transmittal Nos. 507 and 510
Revisions to Tariff F.C.C. No. 101, Implementing the Second Memorandum Opinion and Order in CC Docket No. 80-634

COMMUNICATIONS SATELLITE CORPORATION — Transmittal No. 516
Revisions to Tariff F.C.C. No. 101, Offering Bulk International Business Satellite Service

COMMUNICATIONS SATELLITE CORPORATION — Transmittal Nos. 536 and 542
Revisions to Tariff F.C.C. No. 101, for New Space Segment Full Period Video Leases

COMMUNICATIONS SATELLITE CORPORATION — Transmittal Nos. 546, 553 and 558
Revisions to Tariff F.C.C. Nos. 101 and 14, Implementing Reconsideration Order in CC Docket No. 80-634 and Report and Order in CC Docket No. 82-540

COMMUNICATIONS SATELLITE CORPORATION — Transmittal Nos. 565, 570, 574 and 575
Tariff F.C.C. No. 103, Establishing Separate, Unbundled Space Segment Offering

COMSAT INTERNATIONAL COMMUNICATIONS, INC. — Transmittal Nos. 1, 2, 3 and 4
Tariff F.C.C. No. 1, Establishing Separate, Unbundled Multipurpose Earth Station Service Offerings in Compliance with Report and Order in CC Docket No. 82-540

COMSAT INTERNATIONAL COMMUNICATIONS, INC. — Transmittal Nos. 1, 2, 3 and 4
Tariff F.C.C. No. 2, Establishing Separate Unbundled Special Purpose Earth Station Service Offering Through Santa Paula, California, in Compliance with Report and Order in CC Docket No. 82-540

INTERNATIONAL BUSINESS EARTH STATIONS, INC. — Transmittal Nos. 1, 2, 3, 4 and 5
Tariff F.C.C. No. 1, Establishing Offering of International Business Satellite Service at New York Teleport

MEMORANDUM OPINION AND ORDER

Adopted: February 25, 1988; Released: February 26, 1988

By the Chief, Common Carrier Bureau:

1. Communications Satellite Corporation (Comsat) has petitioned[1] for a postponement of the effective date of a provision of the Commission's December 10, 1987 Memorandum Opinion and Order in the captioned proceeding imposing certain refund requirements upon Comsat.[2] Comsat states that it has complied with the *December Order* by depositing the refund amount specified there in an escrow account, but as the Commission has yet to determine the method by which the refund will be allocated, Comsat contends that the February 29, 1988, disbursement to end users required by that Order should be held in abeyance until the Commission has the benefit of comments on the flow-through issues and on the refund allocation method.

2. This Bureau believes that the requirement that Comsat disburse refunds to end users should be held in abeyance. The basis for allocating refunds among end user customers has not been determined. The immediate disbursement of refunds owed to end users, though diminishing the aggregate refund pool only by a modest amount, conceivably could be disputed by carrier customers who confront their own potential flow-through obligations, on the ground their refund entitlement was improperly reduced thereby.

3. In these circumstances, this Bureau believes that efficient and equitable treatment of Comsat's distinct customer groups, including end users, will better be assured by deferring any disbursement of refunds until a subsequent Order can consider refund methodology questions. To afford parties the opportunity to comment on Comsat's proposed refund method, appended to its petition, and to prepare their counterpart proposals, the schedule for flow-through comments established in the *December Order* will be briefly extended. Finally, in the interest of expeditious procedural treatment of these issues, this Bureau believes that a separate docket should be established to consider those issues that arise from the implementation of refunds. *See, e. g., Comsat Rate Case*, 56 FCC 2d 1101, 1187 (1975).

4. Accordingly, IT IS ORDERED that the petition for postponement of effective date filed by the Communications Satellite Corporation IS GRANTED.

5. IT IS FURTHER ORDERED that the instructions to Comsat contained in footnote 47 and paragraph 46 of the Commission's December 10, 1987 Memorandum Opinion and Order, FCC 87-388, respecting the disbursement of refunds owed to end users, ARE HELD IN ABEYANCE UNTIL FURTHER ORDER.

6. IT IS FURTHER ORDERED, pursuant to Sections 4(i), 4(j), 201(b) and 205(a) of the Communications Act, 47 U.S.C. §§ 154(i)-(j), 201(b) and 205(a), and Section 201(c)(5) of the Communications Satellite Act, 47 U.S.C. § 721(c)(5), that A PROCEEDING IS INSTITUTED to determine the method and procedure for a fair and equitable distribution of the refund obligation imposed on Comsat by the Commission in CC Docket Nos. 80-634 and 85-268. CC Docket No. 88-095 is assigned to this proceeding. Interested parties should file comments on flow-through issues, and proposals for the distribution of refunds among Comsat's customers, by March 11, 1988, and replies by March 25, 1988.

7. IT IS FURTHER ORDERED, that the Acting Secretary shall transmit a copy of this Order to American Telephone & Telegraph Company and to each party filing comments in this proceeding.

8. IT IS FURTHER ORDERED, that in addition to the filing requirements generally imposed by the Commission's Rules for docketed investigations, a separate copy of pleadings responsive to this Order shall be filed with the Commission's commercial contract duplicator; the Chief, Common Carrier Bureau; the Chief, Tariff Division; the Chief, International Facilities Division; and the respective Divisions' reference rooms.

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

FOOTNOTES

[1] Petition of Communications Satellite Corporation for Postponement of Effective Date, filed Feb. 24, 1988.

[2] FCC 87-388, released Jan. 28, 1988 (*December Order*).

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

COMMUNICATIONS SATELLITE CORPORATION — Transmittal No. 674
Revisions to Tariff F.C.C No. 103

MEMORANDUM OPINION AND ORDER

Adopted: February 16,1988; Released: February 17, 1988

By the Chief, Common Carrier Bureau:

1. By Transmittal No. 674, filed November 20, 1987, Comsat proposes tariff revisions offering substantially discounted, long-term service arrangements for digital bearer circuits.[1] The proposed offerings are generally available to all Comsat customers, but were precipitated by an agreement between Comsat and AT&T that commits AT&T to specific circuit usage levels through 1994, in exchange for Comsat's establishing rate ceilings. By these revisions, Comsat would also discontinue after one year its monthly-rated, non-bearer Time Division Multiple Access/Digital Non-interpolation (TDMA/DNI) service. Transmittal No. 674 is scheduled to become effective February 18, 1988 on 90 days' notice.

2. Petitions were submitted by Fedex International Transmission Corporation (Fedex), ITT World Communications Inc. (ITT Worldcom), TRT Telecommunications Corporation (TRT), and Pan American Satellite (PAS). In addition, MCI International, Inc. (MCII) filed comments.[2] The petitioners generally contend that Comsat's proposed long-term rates, especially when juxtaposed with its proposed discontinuance of existing monthly-rated non-bearer service, unreasonably discriminate against carriers whose scale of operations is dwarfed by AT&T's. Comsat has replied to the petitions and AT&T has informally requested acceptance of its comments urging denial of the petitions. AT&T's comments will be accepted pursuant to Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41. ITT submitted a letter on December 30, 1987, stating its dissatisfaction with Comsat's offer of an extended transition period for the non-bearer TDMA/DNI monthly service facing discontinuance, and that letter will be accepted.

3. Fedex argues that Comsat's offering of functionally similar satellite capacity at discounted long term and non-discounted short term rates gives AT&T a significant cost advantage over service providers who offer non-IMTS service and who cannot afford to commit to the long term arrangement. Fedex also contends that Comsat has not attempted to show material differences in the costs associated with providing long and short term services, and that no credible competitive threat warrants Comsat's disparate rate structure. Fedex Petition at 5-10. According to Fedex, the Satellite Act's instruction to assure the "nondiscriminatory use of, and equitable access to the communications satellite system" contained in 47 U.S.C. § 721(c)(2) cannot be reconciled with a rate structure restriction that requires carriers to commit to 10-year obligations under penalty of substantial premature termination charges. Further, Fedex argues, Comsat has diverted the benefits of declining satellite costs to carriers whose stable customer bases enable them to subscribe to long-term discounted arrangements, and the instant transmittal exacerbates this diversion. Fedex Petition at 12-13. Fedex further states that, by Comsat's estimates, it will realize a 12.6 percent return in 1988 if the proposed rates become effective, which exceeds Comsat's prescribed 11.48-12.48 percent return. Averaging Comsat's projected annual returns over the 1988-1990 period would, according to Fedex, constitute a unilateral modification by the carrier of a prescription. *Id.* at 16-18.

4. ITT contends that the proposed offering is "so seriously skewed in favor of AT&T" as to practically be available only to that carrier, in violation of Section 202(a)'s prohibition of unreasonable discrimination. ITT Petition at 4. ITT also criticizes Comsat's failure to submit cost support for what ITT characterizes as rate increases effectively imposed by recasting services as bearer offerings, and asserts that reconfiguring its circuits as suggested by Comsat is not a realistic alternative. Id. at 2-4.

5. MCII asserts in its comments that while ten-year term commitments or circuit rollover restrictions may be reasonable in their application to AT&T, they are unjustified when applied to smaller international carriers. MCII Comments at 2. Such constraints, MCII contends, impede the efforts of smaller carriers to plan and implement their facility networks in an efficient manner and could hamstring the Commission's overall policy to develop international competition. MCII Comments at 5.

6. TRT asserts that the proposed long-term rates, while in terms a general offering, practically exacerbate the existing discrimination between monthly and long-term users. Smaller carrier customers, argues TRT, bear a disproportionate risk in supporting Comsat's long-term rate discounts, but have themselves seen no significant rate reductions for monthly service since 1985. TRT Petition at 2-7. TRT also contends that AT&T's stable base of IMTS traffic, by supporting a substantial long-term investment in circuits that are fungible for other uses, enhances its ability to compete with IRCs for the private line segment of the market that constitutes the bulk of their operations. *Id.* at 11. TRT further contends that Comsat has failed to satisfy the requirements of Section 61.38 of the Commission's Rules, and provides no basis for the ratemaking method employed other than references to Comsat's agreement with AT&T. *Id.* at 12-17. TRT asserts that if Comsat can earn a reasonable return on the $380 per month that TRT calculates its ten-year rates will generate, including a return of 12.6 percent in 1988, the long-standing monthly rate per FM circuit of $610 clearly exceeds any reasonable revenue requirement. *Id.* at 21-23. While conceding that AT&T would be able to achieve lower average costs per equivalent voice grade circuit than other carriers, even if smaller competitors undertook long-term circuit commitments, TRT emphasizes that the magnitude of rate differentials proposed by the extended term arrangements is unreasonable. *Id.* at 23-25.

7. PAS contends that the transmittal establishes different rates for different service routes with identical costs, and justifies this only by citing to the greater competition for

service to the European market. PAS petition at 3-4. PAS also incorporates its more extensive comments filed in CC Docket No. 87-67.

8. Comsat replies that the AT&T commitment results in economies benefiting all space segment users with reduced rates and expanded choices and assures that Intelsat will be able to compete with fiber optic cables. Comsat contends these general public benefits, and Commission acceptance in mid-1987 of multi-year arrangements for Comsat's FM service offerings, outweigh the petitioners' contentions. Comsat Petition at 2-3. As the Commission is aware of the overall circumstances of the AT&T agreement, Comsat asserts, the requirements of Section 61.38 of its Rules have substantially been met. *Id.* at 3-5. Comsat urges that the Commission has long recognized the competitive basis and general reasonableness of discounts for long-term service; Comsat's long lead time for facility planning and Intelsat's vulnerability to traffic declines warrant the approach taken. Carrier customers undertake long-term risks for purchase of cable capacity that are indistinguishable from those posed by Comsat's restructured service offerings. *Id.* at 6-10. Comsat also contends that the smaller carriers' concerns are mitigated by various specific aspects of its proposal. *Id.* at 11-15. Finally, Comsat states its willingness to extend the transitional availability of non-bearer TDMA/DNI service to two years, in response to ITT contentions that requirements and facilities of its foreign correspondents leave it with no practical alternative on many affected routes.

9. AT&T states the proposed revisions are not dependent on execution of its agreement with Comsat, but instead stand as an independently desirable competitive response to the realities of intermodal competition. AT&T Comments at 2. AT&T contends that the long-term rates are not unreasonably discriminatory but reflect the advent of facilities competition that neither Comsat nor Intelsat could afford to ignore, and could not meet under Comsat's traditional monthly rate structure. AT&T adds that it has assumed obligations under its agreement with Comsat not assumed by other carriers taking service under the proposed revisions, and asserts that the rates contained in the tariff revisions "are an essential inducement to continuing the extensive use of Intelsat satellite capacity on a global basis." *Id.* at 3-4.

10. The Common Carrier Bureau has reviewed the tariff transmittal, the petitions and comments, and Comsat's reply. We conclude that no compelling argument has been presented that the introduction of long-term bearer services is so patently unlawful so as to require rejection, and no question has been presented in this respect that would warrant investigation at this time.[3] We are, however, rejecting portions of Comsat's transmittal for the reasons discussed below.

11. Our initial concern is that Comsat has not defined its bearer circuit offerings clearly. For example, Comsat defines TDMA/DSI service in terms of the types of communications for which it is used and ancillary, customer-provided circuit derivation equipment used with the service. *See* proposed sections 6.1.1(A) and 6.1.3(A). Clearly, these bearer services should be defined as generic offerings in terms of space segment technical parameters. They should not be defined by reference to the use made of the communications service by the customer, or to the ancillary equipment used by the customer with the service. Such clear definitions are necessary for customers and the Commission to evaluate alternative service configurations, and to clearly delineate regulated services from those elements and technical capabilities not furnished under tariff. Accordingly, Comsat must restructure its service definitions to carefully describe its space segment offerings. We will require that revisions clearly defining bearer services be filed within two weeks of the release date of this Order.

12. As noted previously, Comsat proposes to recast the existing offering of monthly-rated, non-bearer TDMA/DNI service as a "transitional" service that would automatically terminate no later than fourteen months after the effective date of these revisions. *See* proposed section 6.1.2(A). The petitioning smaller carriers, and MCII, contend that Comsat did not adequately consider the circumstances of their operations, which may be constrained by technical or foreign correspondents' requirements necessitating the use of non-bearer circuits, and the flexibility of a shorter-term offering.

13. Comsat has not justified its decision to discontinue an existing service that some carriers need and want. A substantial justification would be required in view of Comsat's statutory role as a provider of Intelsat services. The discontinuance of existing monthly services does not appear to be an essential part of the long-term offering. While international service offerings are often subject to certain constraints that would not be acceptable for domestic services, the proposed elimination of monthly-rated non-bearer service apparently is not required by treaty commitments, nor by foreign correspondents' technical requirements. Indeed, discontinuance of this service may operate to constrict smaller carriers' ability to comply with third parties' strictures over which they have no control.

14. The general availability of Comsat's proposed long-term discounted offerings does not ameliorate our concerns about elimination of the monthly non-bearer service configuration. This is clearly not an instance in which the addition of a new service configuration that, while more useful to some customers than others, represents a generally available expansion of customer alternatives. Rather, Comsat's proposal amounts to a constriction of smaller carriers that have comparatively limited negotiating leverage with Comsat. The general availability of a new offering, without consideration of all potential users' circumstances, does not justify the discontinuance of another service offering.

15. We therefore conclude that Comsat's proposed discontinuance of non-bearer service conflicts with Comsat's statutory obligations. The proposed discontinuance violates the Satellite Act's broad requirement that "all present and future authorized carriers shall have nondiscriminatory use of, and equitable access to" the satellite system under "just and reasonable charges, classifications, practices, regulations, and other terms and conditions . . . " 47 U.S.C. § 721(c)(2). The discontinuance also violates the Communications Act's prohibition of "unjust or unreasonable discrimination in charges, practices, classifications, facilities or services" as well as its prohibition of a carrier's conferring "any undue or unreasonable preference or advantage to any particular person, class of persons . . . " 47 U.S.C. 202(a). Accordingly, we reject the references in Comsat's proposed section 6.1.2(A) that describe monthly non-bearer service as a transitional offering with an expiration date and which limit the right to subscribe to the service to the 60-day period following effectiveness of the revisions.

16. IT IS THEREFORE ORDERED that the petitions against Communications Satellite Corporation's Tariff F.C.C. No. 103, Transmittal No. 674, ARE GRANTED with respect to the discontinuance of monthly non-bearer service and in all other respects ARE DENIED.

17. IT IS FURTHER ORDERED that Comsat shall file, within two weeks from the release of this Order, tariff revisions that meet the requirements set forth in paragraph 11, *supra*.

18. IT IS FURTHER ORDERED that the motion to consolidate filed by Pan American Satellite IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

FOOTNOTES

[1] The term "bearer circuit" is used to describe Comsat's offering of space segment free of Intelsat-prescribed prohibitions on the application of customer-furnished circuit derivation equipment that enables the space segment to be multiplexed into multiple voice grade circuits. The efficiencies gained from using bearer circuits make satellite service more competitive with anticipated fiber optic cables, and reduce customers' aggregate need for satellite capacity. Depending on the circuit derivation technique employed, a bearer circuit can be multiplexed into from two to four voice grade equivalent circuits.

[2] PAS, MCII and TRT also ask that we review the proposed tariff revisions and the agreement between Comsat and AT&T together. Both Comsat and AT&T oppose these requests. While our review of the proposed revisions takes into account the circumstances influencing both the AT&T-Comsat agreement and this general offering, the tariff raises issues distinct from the agreement. The agreement will be considered by the Commission in the proceeding considering circuit loading policy. *See* Policy for the Distribution of United States International Carrier Circuits Among Available Facilities During the Post-1988 Period, CC Docket No. 87-67.

[3] Our decision to refrain from investigating these long-term charges at this time should not be interpreted as modifying or suspending enforcement of rate of return constraints that are applicable to a larger category of services. If Comsat's 1988 return for the relevant category exceeds applicable limits, appropriate proceedings will be initiated.

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 85-229

In the Matters of

Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry); and

Policy and Rules Concerning Rates for Phase I Competitive Common Carrier Service and Facilities Authorizations Thereof

Communications Protocols under Sections 64.702 of the Commission's Rules and Regulations

MEMORANDUM OPINION AND ORDER ON FURTHER RECONSIDERATION

Adopted: January 14, 1988; Released: February 18, 1988

By the Commission:

TABLE OF CONTENTS

	Paragraph
I. INTRODUCTION	1-5
II. BACKGROUND	6-11
III. RECONSIDERATION ISSUES	12
A. Applicability of CEI/ONA to AT&T	12
1. Positions of the Parties	13-20
2. Discussion	21-23
B. Mandatory Nature of ONA Filing Requirement	24
1. Positions of the Parties	25-31
2. Discussion	32-33
C. CEI/ONA Pricing	34
1. Cost-Based Versus Averaged Pricing	34
a. Positions of the Parties	35-42
b. Discussion	43-46
2. State Regulatory Authority	47-48
a. Positions of the Parties	49-59
b. Discussion	60-62
D. Use Restrictions	63-64
1. Intrastate Services	65
a. Positions of the Parties	65-70
b. Discussion	71
2. Interstate Services	72
a. Positions of the Parties	72-76
b. Discussion	77
E. ONA Implementation Schedule	78
1. Positions of the Parties	79-81
2. Discussion	82-84
IV. ORDERING CLAUSES	85
APPENDIX A	

I. INTRODUCTION

1. Three parties have filed petitions for reconsideration of various aspects of the *Phase I Recon Order* [1] in this proceeding.[2] In that order, we affirmed our decision in the *Phase I Order* [3] to replace the structural separation requirements of *Computer II* [4] with nonstructural safeguards. In the *Phase I Recon Order*, we also clarified our Comparably Efficient Interconnection and Open Network Architecture (CEI/ONA) safeguards, which are designed to make enhanced services available to the public in an efficient, nondiscriminatory manner and to promote competition by controlling potentially anticompetitive behavior by AT&T and the BOCs. Based on our review of the record, we deny the outstanding reconsideration petitions, but we further clarify some aspects of the *Phase I Recon Order*.

2. We reaffirm our decision in the *Phase I Recon Order* to impose CEI/ONA requirements on AT&T that differ from those for the BOCs. Under those requirements, AT&T must file a modified ONA plan on February 1, 1988, and also must file service-specific CEI plans for its enhanced service offerings. We clarify that while both AT&T and the BOCs must file ONA plans, we do not require either AT&T or the BOCs to adopt a particular business organization for their enhanced service operations. We simply require, as we did in the *BOC CPE Relief Order*,[5] that any carrier that does not intend to implement full structural relief must demonstrate that the form of structural separation it proposes to retain either satisfies our nonstructural safeguards or provides a fully adequate replacement for them.

3. We also decline to modify our CEI/ONA pricing requirements to mandate that distance-sensitive transport functions be priced differently for CEI/ONA purposes than the same or substantially identical functions are priced in generally applicable interstate tariffs.

4. We decline to eliminate our requirement that carriers must request waivers if a state imposes terms or conditions on the carriers' intrastate Basic Service Elements (BSEs) or CEI offerings that are inconsistent with our CEI/ONA pricing requirements. We view this waiver procedure as a demonstration of our willingness to be flexible in the face of potential conflicts with state authority in the enforcement of our rules. We also decline to alter our requirement that carriers justify to us any use restrictions contained in state tariffs for BSEs. In our view, this requirement does not interfere with state authority to impose use restrictions, and it provides us with essential

information we need to discover and evaluate potential conflicts between federal and state regulation before such conflicts harm the public.

5. Finally, we expect the BOCs to make reasonably firm CEI/ONA scheduling projections. However, for BOCs whose first ONA plans do not provide for deployment of their initial sets of BSEs throughout their territory, we clarify that those BOCs may submit, in addition to their initial schedules, updated plans in every subsequent year until complete deployment can appropriately be scheduled.

II. BACKGROUND

6. We initiated this proceeding in the summer of 1985 to undertake a broad reexamination of the regulatory framework for enhanced services adopted in *Computer II* and related proceedings. In the *Phase I Order*, we concluded that, relative to nonstructural safeguards, structural separation requirements for enhanced services impose significant costs on the public in decreased efficiency and innovation that outweigh their benefit in limiting the ability of AT&T and the BOCs to engage in anticompetitive behavior. We retained, however, the two service categories first established in *Computer II* : basic services, which are subject to common carrier regulation under Title II of the Communications Act of 1934, and enhanced services, which are not subject to such regulation.[6]

7. In the *Phase I Order*, we replaced structural separation for the enhanced service operations of AT&T and the BOCs with a set of nonstructural safeguards designed to prevent improper cost shifting and discrimination by these carriers in their provision of enhanced services. We permitted AT&T and the BOCs to offer specific enhanced services on an unseparated basis pursuant to the CEI requirements described in the *Phase I Order*. As a precondition to full structural relief for their entire enhanced services operations, we required AT&T and the BOCs to (a) implement approved ONA Plans to be filed February 1, 1988; (b) file cost allocation plans in compliance with the *Joint Cost Order* [7] requirements; (c) adhere to modified versions of the existing network information disclosure requirements; and (d) follow customer proprietary network information (CPNI) procedures.

8. In the *Phase I Recon Order*, we addressed nine petitions for reconsideration of the *Phase I Order*. Upon reconsideration, we revised the CEI/ONA requirements applicable to AT&T so that AT&T is not required to implement the type of unbundling required in the *Phase I Order* for ONA, but may instead rely on service-specific CEI plans for its enhanced service offering.[8] We also stated that the BOCs and AT&T must file ONA plans by February 1, 1988.[9]

9. We clarified in the *Phase I Recon Order* that carriers need only address the requirements of enhanced service providers in designing unbundled BSEs for ONA and unbundled basic services for service-specific CEI plans. However, we stated that such BSEs and CEI offerings, when tariffed at the federal level, must be available to any customer for any use. We did not, however, preempt the states from imposing use restrictions on state-tariffed BSEs and CEI services, nor did we preempt pricing of intrastate services.[10] We maintained the requirement of the *Phase I Order* that the technical characteristics of a carrier's CEI offering must be equal to those of the basic services it uses for its own enhanced services.[11] We noted that this equal access standard remains "full technical equality," but that "equality as perceived by end users" is a key factor in fulfilling the standard.

10. In the *Phase I Recon Order*, we emphasized that ONA implementation is a long-term process. We stated that while we did not expect carriers to complete ONA implementation throughout their entire service area within one year, we declined to modify our requirement that an initial set of key BSEs be implemented within one year of approval of a carrier's ONA plan.[12] We further declined to alter the criteria we established in the *Phase I Order* for determining the initial set of key BSEs, since the criteria well served our pro-efficiency, antidiscrimination goals for ONA. We required that each carrier's ONA plan contain a schedule for the phased introduction of further ONA capabilities after implementation of the initial set of key BSEs, including a schedule for the deployment of the initial set of BSEs throughout a carrier's geographic service area.

11. We also decided that preemption in *Computer II* of state common carrier regulation of enhanced services should not be changed, and affirmed our actions in the *Phase I Order* that preempted the states from imposing (a) separate subsidiary requirements on the enhanced service operations of AT&T and the BOCs, and (b) state nonstructural safeguards that are inconsistent with our *Computer III* safeguards.[13]

III. RECONSIDERATION ISSUES

A. *Applicability of CEI / ONA to AT & T*

12. In the *Phase I Order*, we originally imposed identical CEI/ONA requirements on AT&T and the BOCs. However, in the *Phase I Recon Order*, we found that AT&T's participation in the competitive market for interexchange basic services distinguished it from the BOCs for purposes of imposing general ONA requirements. Thus, we reduced the scope of the ONA requirements for AT&T, requiring it to file a modified ONA plan on February 1, 1988, and to file individual CEI plans for specific enhanced services.[14]

1. *Positions of the Parties*

13. In its petition for reconsideration, Southwestern Bell contends that the record in this proceeding does not support treating AT&T differently from the BOCs for ONA purposes.[15] Southwestern Bell characterizes our decision to modify the ONA requirements applicable to AT&T as essentially based on the following three conclusions: (1) AT&T's existing services are subject to more competition than those of the BOCs; (2) the BOCs are better positioned than AT&T to control basic and enhanced services for residential and small business users; and (3) the BOCs possess basic service information that is more valuable to enhanced service providers than the information in AT&T's possession.[16] Southwestern Bell argues that these conclusions are inaccurate or irrelevant to the question of what AT&T's ONA obligations should be.

14. Southwestern Bell asserts that while AT&T services, taken as a whole, may presently be subject to more competition than BOC services, this situation is changing rapidly. For example, Southwestern Bell states that in the large business segment of the market, the BOCs and AT&T already compete extensively, and that AT&T plans to enter the business of originating and terminating traffic

in the same manner as the BOCs for this market segment. Southwestern Bell's claims that the competitive balance between AT&T and the BOCs will become skewed and inequitable unless AT&T is subject to the same ONA requirements as the BOCs.[17]

15. Southwestern Bell similarly asserts that the BOCs' current market position, which allows them to exert more control than AT&T over basic and enhanced services for residential and small business customers, is not critical to the issue of the applicability of ONA requirements.[18] Southwestern Bell claims that it would be to AT&T's benefit for the BOCs to maintain their current market position regarding residence and small business users, so long as AT&T could position itself to outcompete the BOCs in markets that produce comparatively larger revenues, such as the high end of the business market segment. Southwestern Bell contends that this unbalanced market allocation will result if we do not reconsider our decision to apply ONA requirements to AT&T that are less extensive than those we apply to the BOCs.

16. Finally, Southwestern Bell contends that our conclusion that the BOCs possess more valuable basic service information than AT&T is incorrect and should not serve as a basis for subjecting AT&T to less onerous ONA requirements.[19] Southwestern Bell argues that the *Phase II Order* in this proceeding supports its position that the BOCs do not possess more valuable basic service information than AT&T. It notes that we adopted nearly identical CPNI rules for the BOCs and AT&T in that order. Southwestern Bell concludes that as a matter of simple consistency and fairness, the same ONA plan requirements should apply to AT&T as the BOCs.

17. IDCMA supports Southwestern Bell's request that ONA requirements currently applied to the BOCs be applied to AT&T.[20] IDCMA states that our decision in the *Phase I Recon Order* to subject AT&T to less rigorous requirements is not supported by the record and will not serve this Commission's nondiscrimination and efficiency goals. IDCMA contends that AT&T possesses significant power in the market for the basic services used by the large businesses that are most likely to benefit from ONA. IDCMA emphasizes that AT&T is in a position to exercise this power to gain advantages for its competitive offerings, as are the BOCs. IDCMA argues that since ONA is the mechanism that we have chosen to make the network capabilities controlled by these dominant carriers accessible to their enhanced service competitors, many of the efficiency benefits that would otherwise flow from the ONA structure will be lost if AT&T is excused from many of the ONA requirements.

18. In opposing Southwestern Bell's petition, AT&T contends that the *Phase I Recon Order* correctly established the essential basis for imposing more extensive ONA requirements on the BOCs than on AT&T: the BOCs own local bottleneck facilities and provide their access services on a virtual monopoly basis, in contrast to AT&T, which controls no bottlenecks and is subject to widespread competition in the provision of all its services.[21] AT&T asserts that the record fully supports this finding, which Southwestern Bell does not dispute. AT&T states that it faces "intense and extensive competition" in the interexchange services market, with more than 500 interexchange carriers currently providing service in various parts of the nation including major facilities-based national carriers, such as MCI and US Sprint, as well as numerous regional facilities-owning carriers. It says that many of these regional carriers have formed joint ventures or consortia to provide service on a nationwide basis.[22]

19. AT&T argues that, contrary to Southwestern Bell's suggestion, AT&T is not better positioned to gain control over the large business market than the BOCs, since large and small business customers as well as residential customers are dependent upon BOC access facilities. In short, AT&T contends no one can feasibly duplicate the BOCs' economies of scale and provide the local distribution function at a lower economic cost, and Southwestern Bell cannot provide any evidence to support an opposite conclusion. AT&T also attacks the Southwestern Bell petition by contending that, contrary to Southwestern Bell's assertion, we did not base our finding that less extensive ONA requirements are appropriate for AT&T on the availability to AT&T and the BOCs of CPNI and enhanced services marketing information, but rather, on the fact that the BOCs maintain exclusive possession over valuable line-related information needed by enhanced service providers to offer their services.

20. Replying to AT&T's opposition, Southwestern Bell argues that the respective levels of basic service competition faced by AT&T and the BOCs are largely irrelevant to the issue of whether AT&T should be subject to the same ONA requirements as the BOCs.[23] In Southwestern Bell's view, competition between AT&T and the BOCs could be greatly diminished if there is an inequitable imposition of ONA requirements, regardless of present levels of basic service competition. Southwestern Bell reiterates that the BOCs do not possess more valuable CPNI than AT&T.

2. *Discussion*

21. We deny Southwestern Bell's petition. In the *Phase I Order*, we imposed identical CEI/ONA requirements on AT&T and the BOCs to control potential discrimination against competitive enhanced service providers and at the same time to promote network efficiency through technical integration of basic and enhanced services.[24] Upon reconsideration, however, we concluded that AT&T's participation in the competitive market for interexchange basic services distinguishes it from the BOCs for purposes of imposing ONA requirements.[25] On the basis of a well-focused record, we found that, in contrast to the local service franchises accorded to most BOCs, the major basic service markets in which AT&T participates are all open to competition. In particular, we found that the competitive nature of the interexchange basic service market provides an important assurance that access to those services will be open to enhanced service providers. We found, moreover, that the BOCs, as local exchange carriers, provide different types of services and functionalities to enhanced service providers than does AT&T with its interexchange network. For example, we noted that the BOCs, rather than AT&T, control much of the customer identification, call status, and signaling information that could be of most use in CEI/ONA offerings.[26] Finally, we found that the unbundling requirements of ONA could put AT&T in the position of making innovative, proprietary components of its network available to its interexchange basic service competitors. We concluded that this result could dampen AT&T's incentives to develop and implement new basic network functions. We also concluded, however, that this factor did not support modifying BOC ONA requirements, because, on the one hand,

the BOCs are subject to less competition than AT&T, and, on the other hand, the need for, and the benefit to be derived from, implementation of ONA is greater for the BOCs than for AT&T.[27]

22. Thus, our modifications to the ONA requirements for AT&T reflect the degree of regulation that we found appropriate to impose on AT&T as a condition for its being permitted to integrate its enhanced and basic service operations. Indeed, our requirement that AT&T file service-specific CEI plans for the enhanced services it offers demonstrates our recognition that AT&T continues to have some market power in the provision of interexchange basic services, such as terrestrial private lines, that are important to its enhanced service competitors.[28]

23. The conditions that led us to modify the CEI/ONA requirement for AT&T in the *Phase I Recon Order* have not changed; in contrast to the local service franchises accorded to most BOCs, the interexchange basic service markets in which AT&T participates are all open to competition.[29] In light of such competition, there is less need for safeguards to check AT&T's ability to act anticompetitively. Furthermore, the differences in the functions provided by local exchange and interexchange networks to enhanced service providers also support a different approach for AT&T and the BOCs. Thus, we believe that the CEI/ONA requirements we have imposed on AT&T are appropriate. Concepts of equity or fairness do not mandate identical regulatory treatment of parties that are not identically situated, as AT&T and the BOCs are not.[30]

B. ***Mandatory Nature of ONA Filing Requirement***

24. In the *Phase I Order*, we required AT&T and the BOCs to file ONA plans as a precondition to full structural relief for their enhanced service operations. On reconsideration, we addressed the question whether these carriers could decline to file ONA plans if they choose to continue to operate subject to our structural separation rules for enhanced services. In the *Phase I Recon Order*, we answered this question in the negative -- that is, we held that both AT&T and the BOCs must file ONA plans and otherwise participate in the process of replacing structural separation with the *Computer III* safeguards. However, we also stated that "if any BOC or AT&T seeks to retain some form of structural separation after approval of its ONA plan, it must demonstrate in its ONA plan that the form of structural separation it proposes to retain satisfies our CEI/ONA requirements and their pro-efficiency policy goals."[31]

1. ***Positions of the Parties***

25. Ameritech challenges our requirement that AT&T and the BOCs file ONA plans and otherwise participate in the process of replacing structural separation with *Computer III* safeguards.[32] Ameritech contends that, in the *Phase I Recon Order*, we erroneously concluded that nonstructural safeguards are preferable to structural separation in virtually all cases. Based on this conclusion, according to Ameritech, we *sua sponte* and improperly "clarified" that both AT&T and the BOCs are required to replace existing structurally separated enhanced service offerings with unseparated offerings implementing nonstructural safeguards. Ameritech claims that under ONA, carriers should be granted the flexibility to select, on a case-by-case basis and upon their sound business judgment and analysis of all factors, either structural separation or nonstructural safeguards as the medium under which to offer an enhanced service.[33]

26. Ameritech argues that because we did not previously indicate our intent to mandate removal of structural separation, as contrasted to our often repeated intent to eliminate the structural separation requirement, the concept has not been subjected to comment.[34] Ameritech asserts that this Commission did not have any record that would support the conclusion that structural separation must be totally abolished unless a carrier demonstrates in its ONA plan that the form of separation it proposes to retain satisfies the CEI/ONA requirements and their pro-efficiency goals.

27. Ameritech contends that our concern that, without mandatory imposition of nonstructural safeguards, carriers might seek to maintain structural separation instead of comprehensively implementing ONA and the associated BSEs, is unfounded. Ameritech says that it plans to implement ONA and that ONA will provide unaffiliated enhanced service providers access to basic network functionality regardless of the structure of carrier-offered enhanced services. Thus, it claims there can be no justifiable concern that carriers might use structural separation to circumvent BSE deployment.[35]

28. Ameritech further argues that this Commission cannot justify mandating elimination of structural separation for carrier-provided enhanced services on the grounds that nonstructural safeguards are generically more efficient.[36] Ameritech argues that while efficiencies are theoretically available to a carrier offering an unseparated enhanced service, such efficiencies might not be fully achievable, given our cost allocation methodologies and ONA pricing rules. Ameritech states that even if all such efficiencies could be fully realized, there may be sound countervailing business reasons for using structural separation. Thus, it argues, each carrier should be allowed to choose the structure most suitable for its provision of a particular enhanced service, without being compelled to demonstrate in its ONA plans the propriety of structural separation for future, and possibly speculative, offerings.

29. BellSouth and Southwestern Bell support Ameritech's petition.[37] BellSouth argues that the requirement that a BOC demonstrate in its ONA plan how the form of structural separation that it might seek to retain would satisfy the Commission's CEI/ONA requirements and pro-efficiency policy goals is unnecessary because the *Computer III* safeguards are generic enough to provide the needed levels of protection under any organizational structure. Southwestern Bell argues that there is no competitive risk involved in permitting carriers to offer selected enhanced services on a structurally separated basis when such flexibility is needed, since carriers must file ONA plans that reasonably satisfy the needs of enhanced service providers for BSEs regardless of whether the carriers choose to offer any of their own enhanced services.

30. Telenet states that to the extent Ameritech seeks flexibility to offer unregulated services through structurally separated affiliates rather than on an integrated basis, Telenet supports its petition, provided that a carrier's exercise of this option would have no impact upon its offering of BSEs pursuant to our ONA requirements.[38] Telenet speculates that Ameritech's petition appears to assume that a carrier that elects to offer enhanced services

through a structurally separated entity could avoid ONA pricing requirements. Telenet submits that such an assumption is incorrect.[39]

31. In opposing Ameritech's petition, IDCMA endorses our requirement that carriers that seek to retain structural separation must demonstrate that their approach satisfies the CEI/ONA requirements.[40] According to IDCMA, while Ameritech alleges that this Commission is "requiring" AT&T and the BOCs to replace structural separation with integrated offerings, this Commission did not impose such a requirement. IDCMA says the *Phase I Recon Order* specifically contemplates that a BOC or AT&T may retain structural separation in the ONA environment if it files an ONA plan and demonstrates in the plan that its structurally separated approach satisfies Commission requirements. In IDCMA's view, if Ameritech's request were granted, a BOC could decide whether to use structural separation or ONA based on its perception of which approach would most favor its own enhanced service activities.[41] IDCMA contends that the current approach is necessary to ensure that BOCs will not manipulate their structure to cause discrimination.

2. *Discussion*

32. While we reject Ameritech's petition, we clarify our requirement of the *Phase I Recon Order* that AT&T and the BOCs file ONA plans and otherwise participate in the process of replacing structural separation with *Computer III* safeguards. We note at the outset that we developed a very complete record in the *Phase I Order* both on the inefficiencies associated with the separate subsidiary requirement of Section 64.702 of our rules and of the benefits of the CEI/ONA safeguards as replacements for the separate subsidiary requirement.[42] Our discussion of the mandatory nature of the ONA filing requirement in the *Phase I Recon Order* was intended to clarify any ambiguity over the application of the CEI/ONA requirements to the BOCs and AT&T.

33. As we stated in the *Phase I Order*, AT&T and the BOCs must file ONA plans by February 1, 1988, as a precondition to full structural relief. This filing requirement remains necessary for the industry to achieve the goals of the *Computer III* proceeding. However, while AT&T and the BOCs must file and implement ONA plans, our decision to eliminate the structural separation requirement imposed in *Computer II* does not preclude AT&T or the BOCs from establishing or retaining various forms of business organization for their regulated and enhanced service operations, including the use of corporate entities that have some degree of autonomy from the entities that provide regulated telecommunications services. While a decision to use such a business organization would not exempt a carrier from filing or implementing an ONA plan, it is conceivable that a carrier's use of such an organization could affect the nature of the nonstructural safeguards that are part of its ONA plan. If so, a carrier must demonstrate in its plan that the form of organization it proposes either satisfies our nonstructural safeguards or provides a fully adequate substitute for them. This policy for enhanced services is consistent with that of the *BOCCPE Relief Order* [43] for the BOCs' unseparated provision of CPE.[44] By permitting AT&T and the BOCs to choose for themselves the organizational structure best suited to their needs that also satisfies our requirements, we seek to promote the efficient provision of services to the public while also ensuring that our *Computer III* safeguards are satisfied.

C. *CEI/ONA Pricing*

1. *Cost-Based Versus Averaged Pricing*

34. In the *Phase I Order*, we established a set of pricing requirements for CEI and ONA that allowed, but did not require, charges for distance-sensitive transmission to be cost-based.[45] We stated that mandatory price averaging could be inappropriate for the distance-sensitive costs of the dedicated transmission facilities because such costs are specific to particular competitors and averaging could cause economic distortions.[46] We also required carriers to include an averaged Basic Interconnection Charge and an averaged Basic Concentration Charge in their ONA tariffs, and stated that standard tariffed rates should apply to preexisting, conventional network services that enhanced service providers may use in conjunction with certain offerings. In the *Phase I Recon Order*, we expressly declined to alter this CEI/ONA pricing framework. Moreover, we also stated that we would not require a BSE or CEI offering that is substantially identical to an existing service to be priced lower than that service simply for CEI/ONA purposes. Finally, we emphasized that the use of existing basic services as components of CEI/ONA was not only permissible, but encouraged, as a means of expediting initial CEI/ONA deployment.[47]

a. *Positions of the Parties*

35. CONAP petitions us to clarify and, if necessary, modify our CEI/ONA pricing requirements to provide that rates for interstate transport must directly reflect facilities costs.[48] CONAP notes that in the *Phase I Recon Order*, we permit "cost-based" rates to be charged for certain CEI/ONA offerings so that carriers can realize economic efficiencies that result from integration of basic and enhanced services. CONAP observes, however, that in note 261 to that order, we expressly do "not require a BSE or CEI offering that is substantially identical to existing services to be priced lower than those services simply for CEI/ONA purposes". CONAP is concerned that this statement suggests that our "cost-based" pricing requirement does not mandate a direct relationship between costs and rates.[49]

36. According to CONAP, if carriers were allowed the flexibility to inflate rates for transmission facilities, our efforts to promote enhanced service competition would be defeated.[50] CONAP contends that carriers, through price manipulation, could increase competitors' costs and impede competition. According to CONAP, without competition in enhanced services, the carriers' ability to price such services would be unchecked, and the public would be deprived of whatever efficiencies could result from carrier integration of enhanced and basic services.[51]

37. IDCMA joins CONAP in urging us to clarify our decision to ensure the integrity of CEI/ONA cost-based pricing principles, stating that CONAP has identified language in the *Phase I Recon Order* that could enable carriers to evade the cost-based CEI/ONA pricing requirements.[52] IDCMA supports the principle that prices for essential regulated transmission services should be a function of their underlying costs as such cost-based rates promote efficient consumption of telecommunications pro-

ducts and services by consumers.[53] IDCMA argues that this Commission, in the *Phase I Order*, recognized the benefits of cost-based pricing and directed carriers to charge enhanced service providers and other users rates for distance-sensitive transmission facilities that are based on the actual costs of installing and operating such facilities for the provider. IDCMA claims that this Commission did not intend that carriers be allowed to "strategically price" their distance-sensitive transmission services.[54] Telenet also supports CONAP's petition.[55]

38. Ameritech, Bell Atlantic, BellSouth, and Southwestern Bell oppose CONAP's petition.[56] Ameritech argues that we have made no findings regarding the exact relationship between the price for an unbundled CEI/ONA rate element and underlying facilities costs. Ameritech contends that CONAP errs in stating that we mandated a direct relationship between costs and rates for CEI/ONA, claiming that CONAP misinterpreted language in the *Phase I Recon Order*.[57] Ameritech argues that the transport rates in question are standard tariffed rates for pre-existing network services that been submitted to this Commission, pursuant to procedures that provide for public comment. Ameritech claims the rates have been found to be reasonable. Ameritech notes that carriers that offer such rates under tariff are subject to federal rate-of-return regulation so that they do not have "unfettered pricing flexibility."

39. Bell Atlantic states that to the extent that CONAP is asking us to clarify that we may review interstate tariffs for reasonableness and that cost is a key indicator of reasonableness, the point is self-evident and needs no clarification. Bell Atlantic further contends that to the extent that CONAP is asking us to examine state-tariffed CEI/ONA offerings and to reject those that are not cost-based, CONAP's request is contrary to law and to our clear findings.[58] Bell Atlantic states that it should be permitted to demonstrate that a rate that departs from cost is just and reasonable. Indeed, Bell Atlantic claims that this Commission itself has prescribed CEI/ONA pricing that deviates from cost by requiring all enhanced service providers to pay a portion of the cost of traffic concentration functions that only some enhanced service providers use.

40. BellSouth claims that there is no need to clarify the *Phase I Recon Order*. According to BellSouth, we have clearly stated our position that the BOCs are not required to price transport at facilities-cost, since we did not define minimized transport in terms of pricing but rather in terms of a technology-based concept.[59] BellSouth states that there is no reason to require carriers to eliminate all revenue above facility costs from the rates for transport, since to do so would require other customers to subsidize the costs incurred by providing transport to enhanced services providers. BellSouth claims that if carriers are not allowed to offer existing basic transport components at currently tariffed rates, the complex and time consuming task of identifying initial sets of BSEs would be rendered more difficult.

41. According to Southwestern Bell, it is inconceivable that we could have intended CEI/ONA pricing for transport to mean that carriers must forego receiving their legally authorized rate-of-return on their basic services used to support the delivery of enhanced services.[60] Southwestern Bell states that CONAP's request is based on the "infirm" premise that enhanced service providers should not have to pay any amount for ONA services above the carrier's actual cost in furnishing the needed facilities.[61] Southwestern Bell speculates that CONAP believes that enhanced service providers should not have to pay the rate-of-return portion of the prices for ONA service, and notes that such a presumption is unrealistic, since prohibiting the carriers from earning any return from their ONA service offerings would effectively deter the BOCs from unbundling their network functions and making those functions readily available to enhanced service providers. Southwestern Bell argues that since carriers must charge their own enhanced service operations precisely the same amount for the underlying BSEs as they charge enhanced service providers, carriers have no incentive to charge exorbitant prices for BSEs. Southwestern Bell further states that if CONAP's position is that interstate BSE prices may include the authorized rate-of-return, but that they should exclude any amount above fully distributed cost including rate-of-return, CONAP's concern is unjustified. Southwestern Bell notes that existing targeted interstate access category pricing does not include any amount above fully distributed cost, including rate-of-return.[62]

42. In its reply, CONAP states that its petition addresses only "interstate transport rates."[63] It also clarifies that in referring to the costs of providing service, it uses the term "cost," as does this Commission, to mean fully distributed cost.[64] CONAP argues that if we were to interpret our directive that transport rates should be cost-based to mean that only "non-averaged" rates must be charged, such an interpretation would undermine our efforts to preserve and promote competition in the *Computer III* environment. CONAP claims that our reliance on "off-setting cost advantages" purportedly enjoyed by competing enhanced providers to negate the carriers' unique collocation and integration opportunities would be wholly misplaced if carriers were allowed to freely manipulate transport rates.[65] CONAP further states that it does not propose that we deny carriers an appropriate return on investment or that carriers should be barred from recovery of "non-facilities-related costs," but only that carriers be precluded from charging artificially inflated rates set to generate returns above authorized category ceilings.[66] CONAP expresses concern that carriers will engage in monopolistic rate manipulation by strategically setting prices for certain transport media.[67] Finally, CONAP contends that we should reject BellSouth's claim that carriers should be allowed to offer existing basic transport components at currently tariffed rates to simplify the task of identifying initial sets of BSEs, arguing that the convenience of the carriers in implementing ONA should not outweigh our *Computer III* goals.[68]

b. *Discussion*

43. To the extent that CONAP requests us to modify our CEI/ONA pricing requirements and mandate that distance-sensitive transmission[69] functions be priced differently for CEI/ONA purposes than the same or substantially identical functions are priced in generally applicable interstate tariffs, we deny its petition. In the *Phase I Recon Order*, we declined to extend to distance-sensitive transmission facilities the price averaging treatment we have accorded centralized interconnection and traffic concentration facilities located in carrier central offices. In doing so, we balanced the fundamental argument for such price averaging -- that it reduces the advantages that accrue to carriers that collocate their basic and enhanced service operations while prohibiting others to so collocate -- against our general position, stated in the *Phase I Order*,

that CEI should not destroy true efficiencies that may be available due to collocation or integration. We thus concluded that mandatory averaging would deprive consumers of opportunities to use highly efficient services at prices that directly reflect those efficiencies.[70]

44. CONAP asserts that our preference for cost-based pricing for transmission and our acceptance of existing tariffed rates for these services are somehow inconsistent. The scope of CONAP's petition, however, was originally somewhat unclear. Thus, the BOCs charged that CONAP was proposing that we preempt state ratemaking authorities or prohibit carriers from including their normal rate-of-return or normal overhead loadings in their transmission rates. In its reply, however, CONAP clarifies that its petition addresses only federally tariffed services and that by "cost-based" it refers to rates that are based on a normal, fully distributed costing methodology, which would include the carriers' authorized rates-of-return and overhead charges. As so clarified, CONAP's petition asks us to require that the interstate tariffed rates for services used by enhanced service providers be based on the carriers' costs. The *Phase I Recon Order* did not purport to modify currently applicable standards for the pricing of such interstate services. That order merely declined to adopt a new averaging requirement that is not presently required.

45. CONAP asserts that in some situations this Commission has permitted carriers to charge rates that are not cost-based and that in those cases enhanced service providers could be disadvantaged in competing with carriers that are able to avoid such charges by collocating their enhanced service facilities in their central offices. The BOCs respond that, in certain situations, rates that diverge from costs can nevertheless be reasonable and point to the averaged Basic Interconnection Charges and Basic Concentration Charges mandated in this proceeding as prime examples of non-cost-based charges that this Commission has found reasonable. The BOCs note that CONAP lodges no objection to these obviously non-cost-based charges, which benefit its members and impose, they claim, extra costs on the BOCs.

46. We decline to impose a "cost-based" pricing requirement on CEI/ONA transmission that differs from our normal federal tariff principles. As we stated in the *Phase I Recon Order*, in order to expedite initial CEI and ONA development, we encourage the use of existing basic services, if practicable, as components of CEI/ONA.[71] Through the tariff process, this Commission will be vigilant to identify any proposal by a carrier to charge other enhanced service providers an above-cost rate for interstate transmission while its enhanced service operations pay a cost-based "short-wire" rate, and will order any adjustments to the carrier's proposal that are appropriate.[72] In this way, we seek to foreclose carriers from discriminating against, or manipulating prices charged to, their enhanced service competitors. Moreover, our orders in this proceeding impose an obligation upon the BOCs to minimize the transmission costs of non-collocated enhanced service competitors through traffic concentration or other techniques. The *Phase II Recon Order* in this proceeding, adopted today,[73] clarifies, in the protocol processing context, that a carrier effectively satisfies this minimization of costs requirement if it charges itself the same averaged rate for transmission as it charges its competitors.[74] This clarification applies for BSEs or CEI offerings used to support other enhanced services as well, and should encourage the BOCs in certain circumstances to charge equal rates to themselves and their enhanced service competitors.

2. *State Regulatory Authority Over CEI / ONA Pricing*

47. In the *Phase I Order*, we noted that, because CEI is a means of making basic network facilities and services available to the public, it is a basic service itself and therefore subject to both state and federal regulation.[75] We explicitly avoided reaching any conclusions or adopting any conditions on the rate levels that carriers might propose for such offerings, but, as discussed in Section III.B.1, we adopted other pricing requirements that affect the structure of rates that BOCs may charge for intrastate BSEs.

48. Although we declined to change any of our pricing requirements in the *Phase I Recon Order*, we emphasized that we were not preempting the states from establishing rates or general terms, conditions, or methods of regulation for particular intrastate CEI offerings or BSEs. However, we held that, if a state imposes terms or conditions on a carrier's intrastate CEI offerings or BSEs that are inconsistent with our CEI pricing requirements, the carrier must obtain a waiver of those requirements from us before it introduces an enhanced service that makes use of the basic services at issue.[76]

a. *Positions of the Parties*

49. Southwestern Bell petitions us to remove our waiver requirement, claiming that it constitutes an indirect preemption of intrastate basic service regulation.[77] Southwestern Bell claims that the requirement effectively imposes an intrusive dual regulatory scheme that would require prior approval of new services by federal and state regulatory agencies, which, it claims, is an administratively impracticable approach that is not contemplated in the Communications Act.

50. BellSouth supports Southwestern Bell's petition on the grounds that the requirement for a waiver constitutes indirect preemption and would be harmful to carriers, customers, and the BOCs' competitors by delaying service offerings. BellSouth argues that, since the carrier may not know of a requirement until the state commission issues an order with respect to the requirement, a carrier might have to halt its plans for introduction of an enhanced service while it obtains a waiver from us. BellSouth also claims that it will not always be clear when a state requirement conflicts with our CEI/ONA policies. Particularly in these ambiguous circumstances, it argues, the waiver requirement will encourage a carrier's enhanced service competitors to assert that a state requirement conflicts with our policies in order to use the regulatory process to delay the carrier's entry into that enhanced services market. BellSouth contends that the temptation to use the regulatory process in this improper manner will be especially strong when enhanced service competitors perceive that a carrier has developed a truly innovative and desirable enhanced service.[78] According to BellSouth, some enhanced service providers might even use procedural mechanisms to delay innovative offerings offered by competing enhanced service providers not associated with a carrier. BellSouth further claims that waiver procedures are unnecessary because, if an enhanced service provider properly monitors activities in the states where it does business, it can bring violations of CEI/ONA requirements to this Commission's attention on its own motion.[79]

51. Bell Atlantic supports Southwestern Bell and argues that we are improperly proposing to use a waiver process to review intrastate tariff rates and conditions. It construes the *Phase I Recon Order* as requiring Commission review of tariffs for basic intrastate dial-tone service, since many enhanced services would use standard business lines. If we were to attempt to regulate the rates charged for such services, it claims, the result could be differing rates for local business lines, one imposed by this Commission and the other imposed by the states, with customers migrating to the lower priced alternative.[80]

52. Missouri states that the waiver requirement constitutes an attempt indirectly and improperly to preempt state authority to approve intrastate CEI/ONA offerings and is inconsistent with our recognition that CEI is a basic service subject to regulation on both the federal and state level. Missouri states further that this Commission appears to be working on the basis of a presumption that individual states will make regulatory decisions pertaining to CEI/ONA that conflict with FCC goals. According to Missouri, such a conclusion is premature and will result in customers being denied access to CEI/ONA basic services.[81]

53. NYCHA/CBCHA states that Southwestern Bell's argument for eliminating the waiver process is premised on a mischaracterization of the *Phase I Recon Order*. [82] NYCHA/CBCHA argues that the waiver process is an efficient and permissible administrative mechanism for identifying and resolving state/federal regulatory conflicts that may arise in the future and does not preempt state regulation of intrastate basic services. NYCHA/CBCHA maintains that this process is not "tantamount" to preemption of state regulation because a BOC is not required to seek a waiver except when a state requirement directly conflicts with a specific federal CEI/ONA requirement.[83] NYCHA/CBCHA contends that only when this Commission declines to grant a requested waiver will preemption become an issue, and in those circumstances it will have the authority to preempt the inconsistent state tariff, thus resolving the conflict.

54. NYCHA/CBCHA also claims that Southwestern Bell's further argument for eliminating the waiver process -- to avoid delaying the implementation of state tariffs -- is unpersuasive because Commission overview is necessary to protect the integrity of the ONA regulatory scheme and does not duplicate state regulatory review. Moreover, NYCHA/CBCHA argues that Southwestern Bell overstates the potential for delay in the introduction of new services. The waiver process will only be activated when a BOC finds itself subject to inconsistent state and federal requirements; the process will not be activated as a matter of routine. According to NYCHA/CBCHA, the process will help identify and resolve such conflicts before they become concrete, *i.e.,* before an improper intrastate tariff takes effect.[84]

55. IDCMA also opposes Southwestern Bell's petition, arguing that the Commission's waiver provisions demonstrate a commitment to avoid preemption wherever possible. These requirements do not create a conflict, it says, but instead act as an early warning system to prevent any inconsistencies from ripening into conflict. IDCMA contends that these specific monitoring requirements are preferable to an approach that assumes that someone would otherwise promptly call any conflicts to this Commission's attention.[85]

56. MCI states that the waiver process does not create any jurisdictional conflict and provides an efficient vehicle to monitor ONA developments.[86] Like NYCHA/CBCHA, MCI further contends that only when this Commission determines that state-imposed terms or conditions impermissibly conflict with legitimate federal policies will it be necessary for us to preempt state action, and in those circumstances our authority to preempt is well-established. MCI claims that the waiver process will: (1) quickly identify potential areas of conflict; (2) permit us to evaluate the situation; and, (3) facilitate a prompt resolution of disputes before service is initiated and before competitive harm occurs. In MCI's view, the waiver requirement provides a more efficient and equitable administrative means for addressing and resolving these issues and for ensuring compliance with our policies than would *ad hoc* complaint procedures.[87]

57. NATA also opposes Southwestern Bell, contending that the waiver process is necessary because this Commission's nonstructural safeguards cannot effectively prevent discrimination unless those safeguards apply to all basic services used in the enhanced offerings of the BOCs and their competitors.[88] NATA argues that the fact that a CEI/ONA offering is tariffed at the state level does not excuse carriers from complying with the FCC's CEI/ONA pricing requirements. In NATA's view, we have properly taken a moderate and pragmatic approach to the exercise of our preemption powers and have wisely sought to avoid excessive use of our preemptive authority when no irreconcilable policy conflict has been demonstrated. NATA argues that, when a conflict arises, it may be resolvable in a number of ways short of preemption, including the waiver process. NATA states that Southwestern Bell fails to support its abstract claims that our preemption policy will not work, and that it fails to justify its proposal to eliminate essential pricing safeguards for CEI/ONA offerings.

58. Telenet opposes Southwestern Bell by arguing that the waiver procedure is consistent with this Commission's broad preemption of state-imposed nonstructural safeguards that conflict with our CEI/ONA policies.[89] Until a particular case of state-decreed variance from CEI/ONA pricing principles is presented to us under such a waiver procedure, says Telenet, one cannot predict whether we will preempt such state action. Telenet asserts, however, that we have cited ample statutory authority for preempting state action that might otherwise impinge upon the full implementation of the CEI/ONA policies. Telenet argues that Southwestern Bell misconceives the purpose of the waiver process when it claims that the process would not resolve federal and state regulatory conflicts. According to Telenet, the purpose of the waiver process is to enable this Commission to determine, in light of a particular factual situation, whether state action so impacts federal policy that preemption of that action is required. If this Commission concludes that preemption is in order, the "conflict" would be resolved by our setting aside the state action.

59. In its reply, Southwestern Bell argues that the warning of potential federal-state conflicts provided through the waiver procedure will not necessarily lead to an early resolution of these conflicts. If this Commission decides to preempt a state from requiring a certain type of tariff restriction, it claims, the state might not accept our au-

thority to do so and could challenge us in court. Meanwhile, it says, the BOC would have to delay its enhanced service offering until the matter is resolved in court.[90]

b. *Discussion*

60. We deny Southwestern Bell's petition. We do not view the waiver requirement of the *Phase I Order* either as a form of indirect preemption or as a source of unnecessary regulatory delay. By stating that we stand ready to entertain waiver requests in the event that BOCs find themselves subjected to state regulations that conflict with our CEI/ONA pricing rules, we demonstrated our willingness to be flexible, in the face of potential conflicts with state authority, in the enforcement of our rules. We note that, even if we had remained silent on this point, companies seeking to provide basic and enhanced services in a manner that was inconsistent with our CEI/ONA rules would still have been required to obtain waivers of those rules. By declining to adopt an across-the-board preemption of state authority in this area, and in referring explicitly to a waiver process that would otherwise have been implicit, we neither preempted the states nor imposed an extra layer of regulation on the CEI/ONA process.

61. In this proceeding, we have never purported to preempt the rate levels charged for intrastate BSEs or CEI offerings, and we reconfirm that decision in this order.[91] While we have established some terms and conditions on carrier provision of BSEs and CEI offerings, we reiterate our observation of the *Phase I Recon Order* that our CEI/ONA pricing requirements are narrowly drawn and sufficiently flexible that, even for new intrastate tariffs for BSEs or CEI offerings, waiver proceedings should be quite uncommon.[92] For example, we permit either distance-sensitive or flat-rate pricing for the transmission function; thus, we anticipate few, if any, conflicts between state and federal policies in this area.[93] Furthermore, average pricing approaches, such as those reflected in our policy for interconnection and concentration charges, are well-known to the states and frequently used to promote their regulatory goals.

62. BellSouth has expressed concern that competitors will use the waiver process to delay enhanced service offerings. To minimize delays associated with any possible waiver filings, we have delegated authority to the Common Carrier Bureau (the Bureau) to rule on requests for waiver of CEI/ONA pricing requirements that are prompted by the imposition of nonconforming terms or conditions in state tariffs. We anticipate that the Bureau will examine and rule on waiver requests expeditiously.

D. *Use Restrictions*

63. In the *Phase I Order*, we ruled that unbundled CEI services should be made available not only to enhanced service providers but also to any other customers that might desire them, including basic service competitors of the offering carrier.[94] In the *Phase I Recon Order*, we confined the scope of that requirement to federally tariffed BSEs, allowing states to impose customer or use restrictions in tariffs for intrastate BSEs or CEI offerings, so long as those restrictions do not limit BSEs from being available to enhanced service providers.[95] To that end, we required that carriers include in their CEI plans a full explanation of, and justification for, any intrastate customer or use restrictions.[96]

64. We reiterated that "there is a strong federal policy against customer or use restrictions in tariffs" and said we had found "that such restrictions have often been used by carriers as a means of engaging in certain practices, such as cross-subsidization, price discrimination, and market segmentation, that generally tend to impair competition and reduce consumer welfare."[97]

1. *Intrastate Services*

a. *Positions of the Parties*

65. Southwestern Bell petitions us to eliminate the requirement that carriers justify use restrictions contained in intrastate BSEs in filings to this Commission.[98] Southwestern Bell contends that, if a state elects to restrict access to prevent basic service competitors of the BOCs from using the BSEs, such action would be entirely within the state's jurisdiction and could not possibly affect the provision of an enhanced service. Southwestern Bell claims that it is sufficient that this Commission clearly has held, and has jurisdiction to hold, that states may not impose any use or customer restrictions that would limit access to BSEs for use in providing enhanced services. Southwestern Bell maintains that, if problems arise in this area, they would promptly be called to our attention, and we then could assess whether we should preempt.[99]

66. While BellSouth generally endorses Southwestern Bell's position, it does not concede that we would have authority to preempt any state-imposed use restrictions. In the absence of a waiver requirement, it asserts, enhanced service vendors will have ample opportunity to present their views on such restrictions to state utility commissions, to state courts, or, assuming *arguendo* that this Commission has authority to preempt, to us.[100] In its reply, BellSouth contends that opponents of Southwestern Bell's petition ignore the substantial demands that a monitoring program would place on this Commission's resources. It argues that the responsibility for such monitoring should be left to enhanced service providers, who can bring problems to our attention if the need arises.[101]

67. IDCMA opposes the Southwestern Bell petition and supports the justification requirement for the same reasons that it supports the waiver requirement discussed above. It endorses these procedures as a way to avoid jurisdictional conflicts by providing an early warning of potential inconsistencies in state and federal policies. IDCMA claims that these specific monitoring requirements are preferable to an approach that assumes that someone would otherwise promptly call any conflicts to this Commission's attention.[102]

68. MCI also supports the justification requirement on the ground that this procedure will provide an efficient administrative mechanism for evaluating the underlying rationale for, and reasonableness of, any state-imposed use restrictions.[103] MCI notes that we have found that such restrictions have often been used by carriers for anticompetitive purposes. MCI argues that it would be completely inappropriate for us to eliminate this requirement, which it calls the most effective means for overseeing the implementation of CEI/ONA tariffs. It notes that we presently require local exchange carriers to identify in their interstate tariffs any state-imposed restrictions on the use of WATS access lines, to explain the state policy, and to provide adequate justification for the restriction in interstate tariff support materials.[104] While MCI says that it

disagrees with the legitimacy of these restrictions generally, it maintains that the relevant consideration is that Southwestern Bell has failed to justify eliminating the only procedure which enables this Commission even to consider the propriety of these restrictions and their effect on federal policy.

69. NYCHA/CBCHA states that, as with the waiver procedure, the justification requirement will assist us in monitoring the extent of, and the reasons underlying, state-imposed restrictions. According to NYCHA/CBCHA, if valid justifications for a restriction exist, the burden of requiring a BOC to articulate those justifications in its CEI filings will be minimal. Like MCI, it supports the *Phase I Recon Order*'s analysis of the anticompetitive uses of tariff restrictions and the possibility of federal preemption in this area if necessary.[105]

70. NATA states that, given the importance of the CEI/ONA safeguards to the effectuation of *Computer III* objectives and our longstanding policy against use-related tariff restrictions, it is both necessary and appropriate to require an affirmative justification for use restrictions in CEI/ONA plans.[106] NATA construes the *Phase I Recon Order* as preempting any state restrictions that include enhanced services among the restricted uses, and cites that language as providing a compelling reason for requiring explanations and justifications for such restrictions. NATA further notes that Southwestern Bell acknowledges, apparently with approval, that justifications similar to those it opposes here are required in connection with state use restrictions referenced in federal WATS access tariffs.

b. ***Discussion***

71. We decline to alter the justification requirement. While we acknowledge the states' authority over the rates, terms, and conditions of intrastate basic services, this requirement does not impede state authority to impose use restrictions, as we discussed in the *Phase I Recon Order*.[107] It simply provides us with the information necessary to discover and, if necessary, resolve any potential conflicts between our rules and state regulations before such conflicts harm the interests of the public, including enhanced service providers and their customers.[108] We do not address in this proceeding the extent of our authority to preempt state use restrictions with respect to intrastate basic services that a carrier offers in order to satisfy our CEI/ONA requirements.

2. ***Interstate Services***

a. ***Positions of the Parties***

72. Southwestern Bell argues that we should eliminate our prohibition against use restrictions in federal BSE tariffs or, it implies, at least allow use restrictions in federal tariffs that incorporate by reference state tariffs that contain such restrictions.[109] Southwestern Bell claims that there is precedent for such relief in a series of orders by this Commission regarding unrestricted WATS access lines.[110] Southwestern Bell says that, in 1986, we ordered the removal of all direct and indirect restrictions on the use of interstate special access lines, including WATS access lines, but stated that in requiring elimination of special restrictions on use, we did not purport to preempt state restrictions contained in intrastate tariffs. Southwestern Bell states that by that action, we implied that we did not find it necessary to prohibit completely the existence of use restrictions within interstate tariffs. On that basis Southwestern Bell requests that reasonable use restrictions be permitted for federally tariffed BSEs when necessary to avoid conflict with valid state policies.[111] In its reply, Southwestern Bell expresses concern that, if this Commission permits use restrictions to take effect in state tariffs without permitting the same use restrictions in federal tariffs, the same BSE might be made available on an interstate basis without any such restriction. The result would be customers claiming, without any basis, that they are engaged in interstate services merely to avoid legitimate state BSE use restrictions. Incorporation of state use restrictions into federal tariffs would resolve this conflict, it claims.[112]

73. CONAP supports our policy against use restrictions for federally tariffed BSEs, arguing that Southwestern Bell's suggestion that the Commission allow federal use restrictions when state-tariffed BSEs are "encumbered" with use limitations "would turn the doctrine of federal primacy on its head."[113] CONAP says that Southwestern Bell is asking this Commission to abandon its fundamental CEI/ONA policies "without any knowledge of the nature or extent of any conflict between federal and state requirements."[114] MCI agrees, arguing that Southwestern Bell is, in effect, seeking permission to include in its interstate tariffs any use restrictions contained in its intrastate tariffs. MCI claims that, if this Commission were to acquiesce in this "mirroring," it would be permitting state preemption of federal policy.[115]

74. Similarly, IDCMA contends that, if Southwestern Bell had its way, this Commission would not only eliminate the requirement that BOCs justify state use restrictions in their CEI plans but would also indirectly approve such restrictions by permitting them to be incorporated into federal tariffs. IDCMA claims that Southwestern Bell has neither provided any concrete examples of the type of federal-state conflict it envisions nor explained why incorporation of a state use restriction into a federal tariff could resolve any such conflict.[116]

75. NYCHA/CBCHA argues that Southwestern Bell's reliance on our decisions regarding interstate WATS access lines as precedent for its proposal is inapposite.[117] In those cases, it says, we allowed the BOCs to restrict the use of interstate WATS access lines to interstate communications, so that customers could not make unauthorized calls, but we expressly rejected attempts by the BOCs to impose restrictions directly on interstate use of the same special access lines.[118] NYCHA/CBCHA contends that, if Southwestern Bell's request is granted, "it could obtain customer and use restrictions in state forums amenable to preserving the BOCs' monopoly control over communications, and 'piggyback' those restrictions into interstate tariffs in the guise of 'avoiding conflict' with state policies."[119]

76. NATA claims that Southwestern Bell's request for use restrictions in federally tariffed CEI/ONA offerings clearly would be inconsistent with federal policy, unless the request is limited to references in federal tariffs to valid state use restrictions that have already been explained and justified as discussed above. NATA states such references were permitted in the WATS decisions cited by Southwestern Bell only when they were explained and justified.[120]

b. ***Discussion***

77. We fully addressed the issue of use restrictions in federal tariffs in the *Phase I Recon Order*. [121] This Commission has repeatedly found that use and customer restrictions in tariffs tend to have an anticompetitive, anti-consumer impact.[122] Contrary to Southwestern Bell's characterization of our past decisions,[123] there is no "direct Commission precedent" for the kind of relief it is requesting here, nor have we allowed use restrictions "within federal tariffs. We have stated that local exchange carriers may confine customers' use of interstate WATS access lines to interstate communication when state authorities prohibit their use for intrastate service, but these state restrictions apply to intrastate services. Our WATS decisions do not sanction use restrictions for any interstate communication service. Southwestern Bell's request, if read broadly, could lead to frequent insertion of use or customer restrictions in federal tariffs. This would not be acceptable. If the request is read narrowly and limited, as NATA suggests it should be, to references in federal tariffs to state restrictions that have been fully explained and justified, it merely reflects the policy already announced in the *Phase I Recon Order* and discussed above in Section III.D.1. Accordingly, we deny Southwestern Bell's request on this issue.[124]

E. *ONA Implementation Schedule*

78. In the *Phase I Recon Order*, we said that we did not expect carriers to complete ONA implementation throughout their entire service areas within one year and that deployment of BSEs initially could be limited geographically.[125] However, we required that each carrier's ONA plan contain a schedule for the phased introduction of further ONA capabilities after implementation of the initial set of key BSEs, including specified dates for the deployment of the initial BSEs throughout a carrier's geographic service area. We cautioned that, if a carrier subsequently failed to conform to this schedule, we would consider imposing sanctions, including the reimposition of structural separation on the offending carrier.[126]

1. *Positions of the Parties*

79. Southwestern Bell petitions us to clarify that deployment schedules submitted with the carriers' ONA plans properly can be subject to change, depending on market demand and state regulatory delays. It claims that the BOCs may be totally unable to discern, at the time they file their initial ONA plans, which BSEs may be technically feasible and required by the enhanced service industry at particular geographic locations in the future. Southwestern Bell claims that we have already provided a sufficient mechanism for addressing future ONA needs by requiring the carriers to specify in detail the methods they will use to receive, process, and act upon new requests for BSEs beyond the period of deployment of the initial set of BSEs.[127]

80. BellSouth supports Southwestern Bell's position and its arguments, adding that the schedules of the manufacturers of equipment for the BOCs, like market demand and state regulatory processes, are difficult to predict very far in advance. As an alternative to the requirements in the *Phase I Recon Order*, BellSouth recommends that carriers be required only to forecast their ONA deployment as part of the process they establish to review vendor requests for new BSEs.[128]

81. In opposition, IDCMA argues that, if Southwestern Bell's proposed revisions were implemented, the BOCs' ONA schedules would be diluted to such an extent that the information they provided would be useless for industry planning purposes.[129] IDCMA argues that, unless we retain a clear requirement that ONA plans provide specific, concrete information regarding the ONA approach planned by each BOC -- including its technical characteristics and deployment schedule for BSEs -- the BOCs will surely provide only very general, preliminary information that cannot be used by others in planning for access to the BOCs' networks. IDCMA contends that the *Phase I Recon Order* allows the carriers at least as much flexibility as they require to adjust to changing circumstances or unknown factors.

2. *Discussion*

82. While we deny Southwestern Bell's petition, we further clarify our scheduling requirements. To the extent that Southwestern Bell is arguing that it is difficult to make predictions into the distant future about demand for enhanced services and the BSEs that will be needed to support them, its position has merit. It can reasonably be argued that the BOCs' CEI/ONA offerings must address the needs of markets that are more volatile and difficult to predict than the market for voice services. Unlike competitive voice carriers, enhanced service providers do not serve a ubiquitous or mature market. They offer heterogeneous services to a variety of market segments. Some of those markets are relatively new and difficult to evaluate for scheduling purposes.[130]

83. On the other hand, Southwestern Bell overstates its case when it asserts that BOCs may be "totally" unable to discern which BSEs will be technically feasible and required by the enhanced service industry in the future.[131] The BOCs typically have relatively well-defined schedules for switch replacements and facilities deployment that may extend as long as 10 years into the future. These facilities planning schedules may provide clear guidance for evaluating the technical feasibility of ONA deployment for a relatively long scheduling period.[132]

84. Thus, while we recognize that schedules may change, we expect the BOCs to make reasonably firm CEI/ONA scheduling projections. The planning horizons for such projections may vary among BSEs. For example, a BOC might be able to demonstrate that the market demand for a given type of BSE is sufficiently unpredictable that its deployment should not be planned more than two or three years in advance.[133] For BOCs whose first ONA plans do not provide for deployment of their initial set of BSEs throughout their territories, we clarify that those BOCs may submit, in addition to their initial schedules, updated plans in every subsequent year until complete deployment can appropriately be scheduled.[134]

IV. ORDERING CLAUSES

85. IT IS HEREBY ORDERED, that pursuant to Sections 1, 4(i) and (j), 201, 202, 203, 205, 218, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. " 151, 154(i) and (j), 201, 202, 203, 205, 218, and 405, and 5 U.S.C. ' 553, the Petitions for Reconsideration and Clarification filed in Phase I of this proceeding ARE DENIED, except as provided herein.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

APPENDIX A

PARTIES FILING PETITIONS FOR RECONSIDERATION

Ameritech Operating Companies (Ameritech)
Coalition of Open Network Architecture Parties (CONAP)
Southwestern Bell Telephone Company (Southwestern Bell)

PARTIES FILING RESPONSES

American Telephone and Telegraph Company (AT&T)
Ameritech
Bell Atlantic Telephone Companies (Bell Atlantic)
BellSouth Corporation, South Central Bell Telephone, and Southern Bell
Telephone and Telegraph Company (BellSouth)
CONAP
Independent Data Communications Manufacturers Assn., Inc. (IDCMA)
MCI Telecommunications Corp. (MCI)
New York Clearing House Assn. and California Bankers Clearing House Assn.
(NYCHA/CBCHA)
North American Telecommunications Assn. (NATA)
Southwestern Bell
Telenet Communications Corp. (Telenet)

PARTIES FILING REPLIES

Ameritech
Bell Atlantic
BellSouth
CONAP
Missouri Public Service Commission (Missouri)
Southwestern Bell

FOOTNOTES

[1] Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), *Memorandum Opinion and Order on Reconsideration*, FCC Rcd 3035 (1987).

[2] Hereinafter, we refer to a petition for reconsideration as a "petition, a pleading filed in response or opposition to a petition as a "response," and a pleading filed in reply to a response as a "reply". Parties filing petitions, responses, and replies are listed in Appendix A. We use the abbreviations listed in Appendix A throughout this Order.

[3] Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), *Report and Order*, 104 FCC 2d 958 (1986).

[4] Second Computer Inquiry, *Final Decision*, 77 FCC 2d 384 (Final Decision), *modified on reconsideration*, 84 FCC 2d 50 (1980) (*Reconsideration Order*), *further modified on reconsideration* 88 FCC 2d 512 (1981) (*Further Reconsideration Order*) *aff' d sub nom. Computer and Communications Indus. Ass' n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982)(*CCIA* v. *FCC*), *cert. denied*, 461 U.S. 938 (1983), *aff' d on second further reconsideration*, FCC 84-190 (released May 4, 1984).

[5] Provision of Customer Premises Equipment By The Bell Operating Telephone Companies and The Independent Telephone Companies, *Report and Order*, 2 FCC Rcd 143 (1987), *modified on reconsideration*, FCC 87-389 (released Dec. 17, 1987).

[6] *See Phase I Order*, 104 FCC 2d at 968, para. 10.

[7] Separation of Costs of Regulated Telephone Service From Costs of Nonregulated Activities, *Report and Order*, 2 FCC Rcd 1298 (1987), *aff' d on reconsideration*, 2 FCC Rcd 6283 (1987).

[8] *Phase I Recon Order*, 2 FCC Rcd at 3042, para. 49.

[9] *Id.* at 3057, para. 156.

[10] However, we held that if intrastate tariffs for BSEs or CEI offerings do not fully comply with our CEI/ONA pricing requirements, carriers must seek waivers of the affected CEI pricing requirements.

[11] *Phase I Recon Order*, 2 FCC Rcd at 3048, para. 91.

[12] *Id.* at 3056, para. 149.

[13] *Id.* at 3059-60, para. 173.

[14] *Id.* at 3042, para. 49.

[15] Southwestern Bell Petition at 15-18.

[16] *Id.* at 15.

[17] *Id.* at 16.

[18] *Id.*

[19] *Id.* at 17.

[20] IDCMA Response at 15-16.

[21] AT&T Response at 1-5.

[22] *Id.* at 2-3.

[23] Southwestern Bell Reply at 7-10.

[24] *Phase I Order*, 104 FCC 2d at 1026, para. 130.

[25] *Phase I Recon Order*, 2 FCC Rcd at 3042, para. 45.

[26] Thus, AT&T correctly observes that we based our modification of its ONA obligations not on a finding that it possesses less valuable CPNI and enhanced services marketing information than do the BOCs, but on differences in the type of line or call-related information that enhanced service providers could find valuable in offering their services. We note that in the *Phase II Order* in this proceeding, we imposed on AT&T and the BOCs very similar rules governing the use of CPNI, which we reaffirm with minor modifications in the *Phase II Recon Order* adopted today. *See* Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), *Report and Order*, 2 FCC Rcd 3072 (1987), *modified on reconsideration*, FCC 88-10 (released Feb. 18, 1988). Such rules adequately fulfill our antidiscrimination goals for both AT&T and the BOCs, despite the differences in the types of network information that AT&T and the BOCs control.

[27] *Phase I Recon Order*, 2 FCC Rcd at 3042, para. 48 n. 89.

[28] Nevertheless, in the CEI area as well, we have recognized that AT&T's role as an interexchange carrier could warrant different types of antidiscrimination requirements from those imposed on the BOCs. For example, the CEI requirements for protocol processing differ somewhat for AT&T and the BOCs in recognition of the fact that competing enhanced service providers use AT&T's facilities and services in different ways and for different purposes than BOC facilities and services. *See Phase II Order*, 2 FCC Rcd at 3081, para. 63; *Phase II Recon Order* at paras. 50-52.

[29] *Id.*

[30] We are not persuaded by Southwestern Bell's argument that AT&T's position in the large business market segment should require more extensive ONA requirements. As noted above, AT&T is subject to service-specific CEI requirements. Our decision to establish different ONA requirements for AT&T and the BOCs in the *Phase I Recon Order* is based, in large part, on the fact that, while AT&T is subject to competition for almost all its basic services, the BOCs maintain exclusive possession of a legally protected franchise for many of their services.

[31] *Phase I Recon Order*, 2 FCC Rcd at 3057, para. 156.

[32] Ameritech Petition at 2-10.

[33] *Id.* at 3.

[34] *Id.* at 4.

[35] *Id.* at 5.

[36] *Id.* at 6.

[37] BellSouth Response at 2-4; Southwestern Bell Response at 3, 7-8.

[38] Telenet Response at 2-3.

[39] *Id.* at 3.

[40] IDCMA Response at 3-8.

[41] *Id.* at 7-8.

[42] *See, e. g., Phase I Order*, 104 FCC 2d at 1007-1012, paras. 88-99; 1022- 1028, paras. 118-132; 1059-1064, paras. 201-213.

[43] 2 FCC Rcd at 167-68, n. 90.

[44] A business organization that uses subsidiary corporations for its unregulated operations should be able to comply with the nondiscrimination and accounting safeguards without great difficulty. Indeed, to the extent a separate subsidiary deals at arms length with the carrier's basic service operations, the opportunities for discrimination would be limited and cost allocation should be relatively simple, since there will be few joint or common costs. A showing of compliance with our safeguards in the carrier's ONA plan is necessary to ensure that the particular form of structural separation the carrier adopts does satisfy our concerns about discrimination and cross-subsidization.

[45] *Phase I Order*, 104 FCC 2d at 1048-9, paras. 174-75.

[46] *Id.* at 1047, para. 172.

[47] *Phase I Recon Order*, 2 FCC Rcd at 3068, n. 261.

[48] CONAP Petition at 2-10.

[49] *Id.* at 3.

[50] *Id.* at 7.

[51] *Id.*

[52] IDCMA Response at 17-20.

[53] *Id.* at 18.

[54] *Id.* at 20.

[55] Telenet Response at 1.

[56] Ameritech Response at 1-9; Bell Atlantic Response at 1-2; BellSouth Response at 7-10; Southwestern Bell Response at 3-7.

[57] Ameritech Response at 5.

[58] Bell Atlantic Response at 2.

[59] BellSouth Response at 8.

[60] Southwestern Bell Response at 8.

[61] *Id.* at 4.

[62] Southwestern Bell argues that it would not be inappropriate to use incremental costing and to include amounts for contribution to common costs within prices for some federally tariffed services.

[63] CONAP Reply at 2, and 3-4, n. 4.

[64] *Id.* at 3-4, n. 4.

[65] *Id.* at 5-6.

[66] *Id.* at 3-4, n. 4.

[67] *Id.* at 7-9.

[68] *Id.* at 7, n. 14.

[69] While some parties use the term "transport" in addressing this issue, we use the term "transmission" in discussing this issue, as we did in the *Phase I Order*. *See, e.g.*, 104 FCC 2d at 1048-49, paras. 173-76.

[70] *Phase I Order*, 104 FCC 2d at 1047, para. 172.

[71] We are not, of course, resolving any controversies relating to existing tariff rates in this Rule Making proceeding. Our orders in this docket should not be interpreted as sanctioning or condemning pricing practices that are being, or may be, investigated in other proceedings.

[72] CONAP and IDCMA raise general concerns about "strategic pricing" of interstate transmission rates offered to enhanced service providers. *See supra* paras. 35, 37, and 42. We would expect to address such concerns, if they arise, in the tariff review process.

[73] *See supra* note 26.

[74] *Phase II Recon Order* at para. 34.

[75] 2 FCC Rcd at 1039, para. 156. The same reasoning applies to the BSEs that are an integral part of ONA.

[76] *Id.* at 3054, para. 134.

[77] Southwestern Bell Petition at 4-9.

[78] BellSouth Response at 4 and 5.

[79] BellSouth Reply at 2-3.

[80] Bell Atlantic Reply at 2-4.

[81] Missouri Reply at 2-3.

[82] *See* NYCHA/CBCHA Response at 2-8.

[83] *Id.* at 2, *citing* Southwestern Bell Petition at 3.

[84] CONAP also opposes Southwestern Bell's request, stating that it is based on fundamentally flawed notions of federal preemption. It endorses the response filed by NYCHA/CBCHA. CONAP Response at 2.

[85] IDCMA Response at 9-11.

[86] *See* MCI Response at 3-8.

[87] MCI further claims that Southwestern Bell's petition presents a paradox: according to Southwestern Bell, it says, jurisdiction over the tariffing of intrastate basic services is reserved exclusively to the states, and the FCC has no jurisdiction over intrastate CEI/ONA tariffs. MCI states that, if the Commission were to adopt Southwestern Bell's reasoning, a number of potentially troublesome jurisdictional issues would arise. For example, MCI claims that under Southwestern Bell's reasoning a state could circumvent our *Computer III* policy of structural relief by requiring local exchange carriers to provide in their interstate ONA tariffs that intrastate BSEs may be offered only to enhanced service providers and that eligible enhanced service providers must be either a separate subsidiary of a BOC or unaffiliated with a BOC. MCI argues that, under the rationale advanced by Southwestern Bell, this Commission would lack authority to set aside this tariff restriction. In its reply, Southwestern Bell counters that this example is far-fetched, since it would obviously go far beyond the typical terms and conditions of state tariffs and would directly contradict this Commission in an area over which we have clearly asserted jurisdiction. Southwestern Bell claims that its concern is simply to avoid delays in connection with typical state tariffs for intrastate BSEs.

[88] *See* NATA Response at 2-5.

[89] *See* Telenet Response at 4-7.

[90] Southwestern Bell Reply at 4.

[91] *See, e. g., Phase I Recon Order*, 2 FCC Rcd at 3054, para. 133, *citing Phase I Order*, 104 FCC 2d at 1039, para. 156; 1128, para. 348. Indeed, although in the *Phase I Order* we preempted the states from applying to the enhanced service operations of AT&T and the BOCs any structural separation requirements and any nonstructural safeguards inconsistent with those of *Computer III*, we explicitly acknowledged the role of the states in regulating the rates of intrastate BSEs and CEI offerings. *See Phase I Order*, 104 FCC 2d at 1128, para. 348.

[92] We reiterate that we are not addressing whether preemption, or some other regulatory response, would be the appropriate means of resolving conflicts in this area, if any. We presently have no reason to expect that state policies will conflict with federal objectives in this area and thus find it unnecessary to resolve this question.

[93] We recognize that there may be BSEs tariffed at the state level that do not precisely fit the model established in our CEI pricing requirements. For example, traditional "exchange" features, such as call forwarding or call waiting, often are tariffed with states on a flat-rate, monthly basis. Conceptually, there is no Basic Concentration Charge or distance-sensitive transmission charge associated with such features; the existing averaged flat-rate charges for these features are equivalent to Basic Interconnection Charges. Thus, if the BOCs were to take such BSEs for their enhanced service operations at the same tariffed rates paid by all other competitors, the pricing for these services would not conflict with our pricing requirements, and the BOCs would not have to request waivers for these BSEs. Moreover, waivers will not be necessary for deviations from the CEI/ONA requirements that involve only simple formalities. For example, a carrier would not need a waiver for an intrastate tariff that follows the CEI/ONA pricing framework but has headings or descriptors that differ from such Commission terms as "Basic Interconnection Charge" or "Basic Concentration Charge." Nevertheless, in a carrier's CEI and ONA filings with this Commission, we expect it to identify the particular intrastate tariffed services it is offering to satisfy its *Computer III* obligations with respect to interconnection, transmission, and, when appropriate, traffic concentration.

[94] *Phase I Order*, 104 FCC 2d at 1042, para. 165.

[95] *Phase I Recon Order*, 2 FCC Rcd at 3050, para. 106.

[96] *Id.* at 3051, para. 111.

[97] *Id.* Further emphasizing our concern over the negative effects that use restrictions can have, we added that, "[i]f experience shows that such restrictions are becoming widespread and threaten the viability of our CEI/ONA policies, we will examine at that time the need for appropriate preemptive actions." *Id.*

[98] Hereinafter, we refer to this requirement as the "justification requirement.

[99] Southwestern Bell Petition at 8-9.

[100] BellSouth Response at 5-6.

[101] *Id.* at 2-4. Missouri also opposes the justification requirement, for the same reasons that it opposes the waiver requirement. Missouri Reply at 2-3. *See supra* para. 52.

[102] IDCMA Response at 9-11.

[103] *See* MCI Response at 5-6.

[104] *Id.* at 6, citing Midyear 1986 Access Tariff Filings, Memorandum Opinion and Order, 1 FCC Rcd 1247 at 1249, para. 19. (1986 Access Filings).

[105] NYCHA/CBCHA Response at 6-7.

[106] *See* NATA Response at 6 and 7.

[107] 2 FCC Rcd at 3050, para. 106.

[108] We have authority to require such justification under Section 218 of the Communications Act. That section authorizes this Commission to obtain from carriers "and from persons directly or indirectly controlling or controlled by, or under direct or indirect common control with, such carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created.

[109] *See* Southwestern Bell Petition at 9-12.

[110] *Id.* at 10-12, citing Midyear 1986 Access Tariff Filings, Memorandum Opinion and Order, Mimeo No. 4621 (released May 20, 1986) at para. 14; Midyear 1986 Access Tariff Filings, CC Docket No. 86-181, Memorandum Opinion and Order, Mimeo No. 4987 (released May 30, 1986) at para. 17; and 1986 Access Filings, 1 FCC Rcd at 1249, para. 19.

[111] Southwestern Bell also argues that by eliminating our prohibition against use restrictions in federal BSE tariffs, this Commission would apply to the BOCs the same analysis that led to relief for AT&T from ONA unbundling requirements -- that is, concern that the carrier's incentive to innovate in the development of BSEs be preserved. It contends that, if the BOCs must work on the assumption that BSEs intended for use by enhanced service providers will also be made available without limitation to the BOCs' basic service competitors, the BOCs will be reluctant to deploy innovative BSEs.

[112] Southwestern Bell Reply at 4.

[113] CONAP Response at 2.

[114] Id.

[115] MCI Response at 11.

[116] IDCMA Response at 11-13.

[117] *See* NYCHA/CBCHA Response at 8-10.

[118] *Id.* at 9 n. 19, citing 1986 Access Filings, 1 FCC Rcd at 1249.

[119] NYCHA/CBCHA Response at 10.

[120] NATA Response at 7.

[121] Phase I Recon Order, 2 FCC Rcd at 3048-3051, paras. 93-112.

[122] *See, e.g.*, Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities, 60 FCC 2d 261 (1976), amended on reconsideration, 62 FCC 2d 588 (1977), aff'd sub nom. AT&T v. FCC, 572 F.2d 17 (2d Cir. 1978), cert. denied, 439 U.S. 875 (1978).

[123] Southwestern Bell Petition at 10 and 12.

[124] Southwestern Bell also attempts to compare itself and other BOCs to AT&T. We note, however, that the Phase I Recon Order is replete with references to the distinctions between AT&T and the BOCs in the degree of market power they possess and the extent to which they control bottleneck facilities. We already have discussed this issue in this order in the context of addressing Southwestern Bell's challenge to our decision to impose on AT&T ONA requirements that differ from those we have established for the BOCs. *See* supra paras. 12-23. Moreover, in the Phase I Recon Order, we specifically rejected arguments that ONA should not be applied to the BOCs because the general availability of BSEs would dampen the BOCs' incentives to innovate in their networks. *See* Phase I Recon Order, 2 FCC Rcd at 3042, para. 48 n. 89. Southwestern Bell has presented no new information in this proceeding in advancing essentially the same argument in supporting the availability of use restrictions on interstate BSEs.

[125] Phase I Recon Order, 2 FCC Rcd at 3055, para. 142.

[126] *Id.* at para. 143.

[127] Southwestern Bell Petition at 12-14.

[128] BellSouth Response at 6-7.

[129] *See* IDCMA Response at 13-15.

[130] For example, one source estimates that only 5 percent of U.S. computer owners are currently using modems to access online databases, while another reports that the market for data communications to residential customers is growing at an annual rate of 25 percent. Source Telecomputing Corp. Comments in CC Docket No. 87-215, at 3; ADAPSO Comments in CC Docket No. 87-215, at 26-28. We have incorporated these comments into the record in this proceeding.

[131] Southwestern Bell Petition at 13.

[132] The enhanced service providers themselves risk investment on an uncertain future, and they can legitimately argue that they should not be subjected to further uncertainty in the form of vague or unreliable deployment schedules for basic transmission capacity provided by exchange carriers. Finally, it bears repeating that the risk of making BSEs available is mitigated by the fact that many BSEs could be equally as useful for basic voice traffic as they are for enhanced services.

[133] By stating that the feasible planning horizon for one hypothetical type of BSE could be two or three years, we do not imply that this period would be a sufficient and acceptable planning horizon for all types of BSEs or even for any one type of BSE. We will expect the BOCs to justify such scheduling limitations when they submit their ONA plans.

[134] With this kind of rolling update procedure, competitive enhanced service providers should always have a reasonable schedule of future BSE deployments in the near- to medium-term future. For example, if we found acceptable an initial schedule that was filed on February 1, 1988, and projected deployment of a given BSE over the following three years, i.e., through January 31, 1991, we would expect the BOC to file an updated schedule on February 1, 1989, projecting further deployment of the BSE through January 31, 1992. Such updates would be filed at least once a year until the BOC had provided for deployment of the BSE throughout its geographic territory.

Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 85-229
Phase II

In the Matters of

Amendment to Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry); and

Policy and Rules Concerning Rates for Competitive Common Carrier Service and Facilities Authorizations Thereof

Communications Protocols under Sections 64.702 of the Commission's Rules and Regulations

MEMORANDUM OPINION AND ORDER ON RECONSIDERATION

Adopted: January 14, 1988 Released: February 18, 1988

By the Commission: Commissioner Dennis dissenting in part and concurring in part and issuing a statement at a later date

TABLE OF CONTENTS

	Paragraph
I. INTRODUCTION	1-2
II. SUMMARY	3-10
III. TREATMENT OF PROTOCOL PROCESSING	11
A. Regulatory Status of Protocol Processing	13
1. Positions of the Parties	13-17
a. General Issues	13-17
b. Legal Issues	18-20
2. Discussion	21
a. General Issues	21-23
b. Legal Issues	24-27
B. CEI/ONA Requirements for Protocol Processing	28
1. Multiplexing at BOC End Offices	29
a. Positions of the Parties	29-31
b. Discussion	32-34
2. The NURE Requirement	35
a. Positions of the Parties	36-38
b. Discussion	39
3. Price Averaging Rules	40
a. Positions of the Parties	41-45
b. Discussion	46-49
4. Applicability of BOC CEI Requirements to AT&T	50
a. Positions of the Parties	51
b. Discussion	52
C. Internetworking Protocol Conversions	53
1. Positions of the Parties	54-56
2. Discussion	57
IV. NONSTRUCTURAL SAFEGUARDS FOR THE ENHANCED SERVICE OPERATIONS OF AT&T AND THE BOCS	
A. Nondiscrimination Reporting Requirements	58
1. Quality Reports	59
a. AT&T	59
(1) Positions of the Parties	59-65
(2) Discussion	66-71
b. The BOCs	72
(1) Positions of the Parties	72-75
(2) Discussion	76-77
2. Format of Installation and Maintenance Reports	78
a. AT&T	78
(1) Positions of the Parties	78-79
(2) Discussion	80-82
b. The BOCs	83
(1) Positions of the Parties	83
(2) Discussion	84
B. Customer Proprietary Network Information	85
1. BOC Use of Customer's CPNI	86
a. Positions of the Parties	86
(1) The NYCHA/CCTU Petition	86-88
(2) Comments Supporting the Petition	89-90
(3) Comments Opposing the Petition	91-95
b. Discussion	96-99
2. CPNI Clarifications	100
a. Positions of the Parties	100-103
b. Discussion	104
(1) Response Forms	105
(2) Length of Customer Restrictions	106
(3) Partial and Temporary CPNI Restrictions	107
(4) Miscellaneous	108-109
3. Aggregate CPNI	110
a. Positions of the Parties	110-112
b. Discussion	113-115
C. Network Disclosure Rule	116
1. Positions of the Parties	117-119
2. Discussion	120
V. THE MULTIPLEXER EXCEPTION	121
A. Introduction	121
B. Positions of the Parties	122-137
C. Discussion	138-145
VI. ORDERING CLAUSES	146-147

Appendix A

I. INTRODUCTION

1. In the *Phase I Order* in this docket,[1] we established a new regulatory framework to govern the participation of the American Telephone and Telegraph Company (AT&T) and the Bell Operating Companies (BOCs) in the enhanced services marketplace. This framework, based on nonstructural safeguards, replaced the structural separation requirements established in the *Computer II* proceeding.[2] In the *Phase II Order*, [3] we determined how those principles would be applied in the following five subject areas. First, we determined that protocol processing should continue to be treated as an enhanced service and that AT&T and BOC protocol conversion offerings must satisfy specific Comparably Efficient Interconnection (CEI) requirements for the basic services their competitors need to provide enhanced services that include protocol processing. Second, we required AT&T and the BOCs to comply with nonstructural safeguards including: a requirement to provide quarterly reports on the quality and timeliness of their installation and maintenance activities; network information disclosure rules, under which AT&T and the BOCs must inform enhanced service providers of new or modified network services; and rules governing the release and use of customer proprietary network information (CPNI). Third, we retained our general requirement that network channel terminal equipment (NCTE) be treated as unregulated customer premises equipment (CPE), while allowing the BOCs to provide remote loopback testing under tariff. We also retained our existing "multiplexer exception which permits carriers to provide network multiplexers on customer premises as part of a regulated service. Fourth, we concluded that we should not apply *Computer III* requirements to the independent telephone companies. Fifth, we found that the *Computer III* policies should apply to international communications.

2. Nine parties have filed petitions seeking reconsideration[4] of various aspects of our decisions in the first three of these five subjects areas.[5] As summarized below, we deny those petitions in substantial part but adopt certain modifications and clarifications of the requirements established in the *Phase II Order*. In our view these modifications and clarifications will promote the goals of this proceeding in fostering competitive, efficient marketplace for enhanced services that will best serve the needs of the American people.

II. SUMMARY

Protocol Processing

3. In the *Phase II Order*, we determined that protocol processing should continue to be treated as an enhanced service[6] and that, when protocol processing is offered by AT&T or a BOC, the carrier must satisfy specific CEI requirements in order to provide efficient, nondiscriminatory, unbundled access to its basic service facilities necessary for competitors to provide enhanced services that include protocol processing.[7] We directed AT&T to implement these requirements by offering to others, at the same tariffed rates it charges its own enhanced service operations, the digital transmission capabilities that underlie its services that provide protocol processing.[8] Because of the BOCs' control over local basic service facilities, we subjected them to more detailed requirements than those applied to AT&T,[9] based on the conditions we had applied earlier in the *Asynchronous / X. 25 Waiver Order*.[10] We stated that an appropriate implementation would require, among other things, that the BOCs provide value-added networks (VANs) the opportunity to multiplex transmissions to BOC end offices, rather than requiring VANs to incur the potentially higher cost of using many individual voice-grade circuits.[11] To avoid imposing unfair cost burdens on customers who use the BOCs' packet-switched networks for basic service, *i. e.*, without any form of protocol conversion, we required the BOCs, under certain circumstances, to impose an added charge, the network utilization rate element (NURE), for providing protocol conversion.[12]

4. In this Order we decline to reclassify protocol conversion as a basic service. We reaffirm that the BOCs must minimize the transport costs incurred by other providers of protocol processing that connect with the BOCs' basic service facilities, but we clarify that multiplexing those connections to aggregate traffic is not the only acceptable cost-reduction technique. We also clarify that a BOC may satisfy this requirement by foregoing the potential cost advantages available from collocating its enhanced service facilities in its central offices and instead charging non-distance-sensitive transmission rates to all enhanced service providers, including its own enhanced service operations and those of noncollocated competitors. We relieve the BOCs of the NURE requirement, and we decline to subject AT&T to the CEI requirements that apply to the BOCs' protocol processing offerings. We decline to eliminate open network architecture (ONA) and CEI price averaging requirements for protocol conversion. This Order does not alter our previous findings that internetworking protocol conversions can be treated as basic service.

Nonstructural Safeguards

5. In the *Phase II Order*, we required that, as part of their CEI obligations, AT&T and the BOCs file quarterly nondiscrimination reports that provide comparative data on the timing of installation and maintenance, as well as the quality and reliability, of the basic services offered as part of any CEI tariff. We established network information disclosure rules that require AT&T and the BOCs to inform enhanced service providers of new or modified network services. We also imposed CPNI obligations on the enhanced service operations of AT&T and the BOCs similar to those imposed on AT&T for its CPE operations. AT&T and the BOCs may use CPNI for enhanced service marketing operations, provided that they establish procedures to honor any requests from customers that their CPNI be withheld from carrier-affiliated enhanced service personnel or released to other enhanced service vendors.[13] We required AT&T and the BOCs to notify their multiline business customers of these rights on an annual basis. We also required the BOCs to provide any nonproprietary, aggregate CPNI that the BOCs provide to their own enhanced services personnel to unaffiliated enhanced service vendors.[14]

6. This Order eliminates the requirement that AT&T submit reports on the quality of the basic services that it provides as part of its CEI/ONA tariffs, provided that it (1) amends its ONA plan to include a detailed description of its installation procedures that demonstrates its inability to engage in quality-based discrimination, and (2) submits

an annual affidavit attesting that it has followed the installation procedures described in its ONA plan amendments and that it has not, in fact, discriminated in the quality of network services used by competing enhanced service providers. We conclude that the BOCs should be afforded the same opportunity to demonstrate that their procedures preclude such discrimination. If they can do so, the BOCs will also be relieved of the quality reporting requirement, subject to the same conditions applicable to AT&T. We deny AT&T's request for permission to file installation and maintenance data only for its own enhanced service operations, but we modify our requirements to permit AT&T to file reports comparing installation and maintenance intervals provided to its own enhanced service operations with those provided to a sampling of all customers. This Order does not modify the format for the BOCs' installation and maintenance reports, but we will permit each BOC to amend its ONA plan to include a detailed description of its installation and maintenance procedures that demonstrates that it lacks the ability to discriminate, and we will modify this requirement, in the same way as for AT&T, for each BOC that makes such a demonstration.

7. We decline to require that the BOCs' enhanced service personnel be denied access to CPNI absent prior authorization from customers.[15] We expect carriers to take special care to protect the CPNI of customers, expecially enhanced service providers, that request restricted treatment of their CPNI. Among other things, we require AT&T and the BOCs to amend their ONA plans describe the types of information they will treat as CPNI. We also adopt five requirements that should facilitate users' ability to limit access to their CPNI. First, each CPNI notice to multiline business customers must include a response form that customers may use to inform the carrier of their preferred CPNI treatment. Second, we require that a customer's choice to restrict release of its CPNI shall remain in effect until the customer expressly chooses otherwise. Third, we clarify that customers may authorize release of some or all of their CPNI for specific time periods or for specific purposes. Fourth, we require AT&T and the BOCs to honor customer requests for restricted treatment of CPNI that are sent before the carriers send notices of CPNI rights. Fifth, we require AT&T and the BOCs to include copies of their proposed notification of CPNI rights and response forms with their ONA plans. We also decline to relieve the BOCs of the requirement that they make nonproprietary, aggregate CPNI available to unaffiliated enhanced service providers, and we deny requests that we subject AT&T to the same requirement.

8. Finally, we decline to modify our network disclosure requirements to reduce the amount of advance notice that BOCs must give before initiating a new or modified network service that will affect the interconnection of enhanced services with the network.

Multiplexer Exception

9. The *Phase II Order* retained our general requirement that NCTE be treated as unregulated CPE. We allowed the BOCs to offer, under tariff and on the network side of the network demarcation point, remote loopback testing. That function enables the BOCs to determine whether faults are present in local loops before dispatching repair personnel. We also established a waiver standard for equipment that provides other NCTE functions and continued the existing multiplexer exception.[16]

10. This Order clarifies our treatment of multiplexing provided through equipment located on customer premises. We retain the multiplexer exception for network equipment that has already been installed on customer premises, and for updated or improved versions of such equipment. If a carrier wishes to offer, on a regulated basis, any other equipment on customer premises that incorporates non-loopback NCTE functions such as multiplexing, the carrier must request permission to do so on a case-by-case basis. A carrier must satisfy the NCTE waiver standard of the *Phase II Order* in order to obtain such permission. This treatment will promote the efficiencies of the competitive CPE marketplace while giving flexibility to carriers to provide basic service efficiently. In adopting this approach, we conform our regulatory treatment of multiplexing with our treatment of other NCTE functions, particularly in light of the *BOC CPE Relief Order*,[17] which permits the BOCs to supply unregulated CPE on an integrated basis with regulated communication services.

III. TREATMENT OF PROTOCOL PROCESSING

11. The *Phase II Order* holds that protocol processing is an enhanced service. In reaching this conclusion, we analyzed three alternatives for the regulatory treatment of protocol processing labeled Alternatives A, B, and C.[18] Under Alternative A, protocol processing applications that did not change the information content of a subscriber's message would be treated as neutral adjunct services that could be offered as part of an underlying basic or enhanced service without changing the regulatory status of that service. Under Alternative B, while protocol processing functions in general would be classified as enhanced, we would have the discretion to selectively remove from the enhanced service category those protocol processing functions that could be classified with certainty as adjuncts to basic service. Under Alternative C, the *Computer II* enhanced service classification for protocol processing would be retained.

12. The *Phase II Order* adopted Alternative C. While we retained the enhanced status of protocol processing, we established CEI requirements for protocol processing that differ from the general CEI/ONA requirements of the *Phase I Order*.[19] We noted that adopting Alternative A would create a significant possibility that currently unregulated VANs would be subject to "reregulation.[20] We found that Alternative C best preserves the present competitive market for protocol processing while contributing to regulatory certainty.

A. *Regulatory Status of Protocol Processing*

1. *Positions of the Parties*

a. *General Issues*

13. Several parties ask us to reverse the holding that protocol processing is an enhanced service and declare that protocol processing will be treated as a basic service when offered by the BOCs.[21] Some petitioners base their arguments on technological and operational considerations, claiming, among other things, that: (a) protocol processing and packet switching are unitary and therefore should not receive different regulatory treatment; (b) the treatment of protocol conversion that does not change information content as either a neutral adjunct or a basic

service in Alternative A provides a workable standard that better matches the role of protocol processing in facilitating basic communications; and (c) enhanced service status for protocol processing (Alternative C) will adversely affect the introduction of fast packet technology, which will be capable of handling commingled voice and data traffic.[22]

14. Some petitioners claim that the adoption of Alternative A will not lead to the reregulation of enhanced services because the states are not interested in such regulation. These petitioners also claim that the "contamination theory"[23] will protect VANs that provide enhanced services other than protocol processing.[24] In this regard, BellSouth argues that this Commission "retains the authority to preempt inconsistent regulation of non-common carrier services" citing *NARUC I*.[25] It further claims that "the courts have upheld the Commission's determination that enhanced services are not common carriage,[26] citing *CCIA v. FCC* [27] and *NARUC II*.[28]

15. Finally, some petitioners object to the CEI/ONA requirements that the *Phase II Order* applies to the provision of protocol processing.[29] These petitioners claim that the CEI requirements for protocol processing would be so onerous, compared to Title II regulation under Alternative A, that the requirements would foreclose efficient BOC deployment of protocol processing.[30] BellSouth claims, for example, that the CEI requirements of the *Phase II Order* are more stringent than those of the *Asynchronous / X. 25 Waiver Order*, and would severely lessen BOC competitiveness.[31] Second, petitioners contend that enhanced treatment of protocol processing creates more regulatory uncertainty than basic service treatment because it will produce litigation involving the applicability of CEI/ONA.[32] Petitioners say that several enhanced service providers have asked the BOCs to provide protocol processing as a tariffed basic service element (BSE). If protocol processing remains enhanced, this cannot be done.[33]

16. Other parties claim that these petitioners have merely repeated many of the arguments raised in the *Phase II* proceeding, which we fully addressed in the *Phase II Order*.[34] The opposing parties then restate several of their arguments in support of Alternative C.

17. ADAPSO, IBM, and Telenet counter the technological and operational arguments of petitioners by repeating their claims that the information content test of Alternative A is unworkable. These parties state that protocol processing should not be regulated because it is integral with enhanced data processing services.[35] These parties also argue that the "contamination theory" would not prevent reregulation of the VANs. They contend that, if protocol processing is classified as a basic service, it is likely that at least some of the states will choose to regulate it, and our authority to preempt states from doing so is doubtful.[36] Finally, these parties claim that the protocol processing CEI requirements, as a whole, are not burdensome and are necessary to maintain fair and efficient competition in the VAN marketplace.[37]

b. *Legal Issues*

18. Several BOCs and Florida question our decision to retain enhanced service status for protocol processing on legal grounds. Ameritech claims that the *Supplemental Notice* found that protocol processing does nothing more than maintain a pure transmission capability over a communications path, thus fitting the definition of basic service.[38] Ameritech characterizes this as an "undisturbed finding," and claims that, in light of this finding, "it is unclear how the Commission can avoid reconsidering" its treatment in the *Phase II Order* of protocol processing as enhanced.[39] In its reply, Ameritech notes that if protocol processing "is a part of communications, the potential consequences of regulation are not sufficient to rule otherwise."[40] Similarly, BellSouth contends that since protocol processing is an integral part of basic packet switching service, which is offered to the public indiscriminately, we must permit the BOCs to offer it as a common carrier service under tariff.[41] Bell Atlantic argues that there is no legal basis for differentiating between those communications that require protocol processing and those that do not. Accordingly, it claims, we should find that protocol processing that does not change the content of the communication does not convert an otherwise basic service into an enhanced service.[42]

19. Florida says that because the same facilities used for necessary protocol conversions within the network also support conversions that meet the needs of end users, it is difficult to determine exactly what is to be offered under tariff. According to Florida, this difficultly would be mitigated if protocol conversion were not "arbitrarily and artificially" defined as enhanced.[43] Florida also questions our jurisdiction over protocol conversion in connection with BOC packet switching services. Florida claims that since such BOC services are local in nature, the associated protocol conversion will be local as well.[44]

20. In its opposition, ADAPSO contends that protocol processing is properly classified as enhanced because, unlike basic computer processing functions that set up and route calls and perform other network management functions, protocol processing functions act on the format, code, protocol, and content of the information transmitted by a subscriber, and thus disturb the transparency of a communications path. ADAPSO argues that by causing the output of a communications path to differ from its input, protocol processing, by its nature, is neither a basic service nor a function integral to basic services, but instead adds stand-alone value to underlying basic services.[45] ADAPSO further argues that protocol conversion has been treated as an enhanced service for the past seven years, with the approval of the Court of Appeals in *CCIA v. FCC*.[46] ADAPSO also attacks Florida's argument that it would be difficult to differentiate between internal, "necessary" protocol conversions and conversions that meet the the needs of end users. ADAPSO states that while internal conversions are both invisible to end users and are performed by a carrier for its own internal purposes, external or net protocol conversions (which are enhanced) are discrete services provided to, for, and at the request of, customers.[47]

2. *Discussion*

a. *General Issues*

21. We deny the petitions and retain the enhanced service status of protocol processing as explained in our *Phase II Order*. We agree with those parties who observe that many of the arguments of the petitioners are not new. Arguments such as those related to the information content test, the unitary nature of protocol processing and communications, constraints on the introduction of new technology (such as ISDN and fast packet switching), the "contamination theory," the effects of specific CEI/ONA requirements on competition, the propensity of the states

to regulate under Alternative A, and preemption[48] have been thoroughly considered in previous orders in this proceeding.[49] Repetition of these arguments does not warrant the reversal of our determination that protocol processing should remain an enhanced service.

22. Nor do we find any of the new petitioners' arguments to be persuasive. PacTel claims, for example, that compared to Alternative A, "Alternative C . . . would create as much or more litigation concerning a greater multitude of complex issues as broad as CEI and ONA."[50] We find this argument unconvincing. We have attempted throughout this proceeding to ensure that the CEI/ONA requirements for protocol processing are straightforward in principle and application,[51] thus, minimizing the potential for confusion. Indeed, these requirements are based on the *Asynchronous / X. 25 Waiver Order*, which has already been implemented by the BOCs. Furthermore, we are adopting certain modifications to, and clarifications of, these requirements, which make those requirements even less difficult to implement, while preserving their procompetitive effects.[52] As a result, the implementation of conversions for other widely used subscriber protocols, such as the bisynchronous protocol used in many existing terminals, should be possible without any greater difficulty than for the asynchronous/X.25 conversion.

23. The argument that protocol conversion, if an enhanced service, cannot be offered as a BSE[53] seems to ignore the fact that our present treatment of protocol processing does not prohibit a BOC offering of protocol conversion services to enhanced service providers that desire it. In a typical application, a provider of an enhanced service, such as an information retrieval or a similar database-type service, could purchase protocol conversion from a BOC to allow its customers, with otherwise incompatible terminals, to interconnect with the enhanced service provider's host computer. A BOC could provide this service by performing the protocol conversion at its end office facilities and then providing transmission to the enhanced service provider's node over the BOC's own packet network. The regulated packet transmission component of the BOC's service could be billed as a BSE and the protocol processing component would be billed as an enhanced service. Southwestern Bell does not explain why the provision of protocol processing in this fashion would not be practical or responsive to enhanced service provider needs.

b. ***Legal Issues***

24. We conclude that petitioners' legal arguments are not well- founded. The *Phase II Order* retained the definition of enhanced services, including protocol processing, that we adopted in 1980 in the *Computer II Final Decision*. That *Final Decision* concluded that enhanced services, including protocol processing, are not common carrier communication services.[54] The reviewing court upheld that conclusion.[55] We have not taken any action in this proceeding that would alter this result.[56]

25. Ameritech's claim that the *Supplemental Notice* found that protocol processing maintains a pure transmission capability over a communications path is misconceived. The *Supplemental Notice* stated that "even without end-to-end protocol conversion, carriers must employ computer processing application that act on the symbols denoting the format, content, and code of a subscriber's transmission, in order to effect and maintain end- to-end communications."[57] Thus, we clearly distinguished between end-to-end protocol conversion services, which are enhanced under our rules, and other, internal processing functions used in providing basic services.

26. Although BellSouth contends that protocol conversion should be regulated because it is "an integral part" of the basic packet switching services that BellSouth provides on an indiscriminate basis "to all comers", we emphasize that while the underlying packet switching service in such offerings is a basic common carrier service, the fact that protocol conversion can be integrated efficiently with that basic service does not cause protocol processing itself to lose its enhanced status.[58] Furthermore, as a result of the large number of standard and proprietary computer protocols available, providers of end-to-end protocol processing must be able to custom-tailor their processing services to the particularized needs of their customers who, for example, might wish to communicate through a number of different computer terminals that use incompatible protocols. Such individualized offerings comport with our finding in *Computer II* that enhanced services, which include protocol processing, are not common carrier communications services.[59]

27. Furthermore, we do not accept Florida's claim that our long- standing enhanced classification of protocol processing should be modified because of purported regulatory difficulties in applying the classification. Florida presents no new evidence that such difficulties have increased, or conditions have otherwise changed, since release of the *Phase II Order*. To the contrary, the present classification has been in existence since 1980, and the BOCs presently are offering asynchronous/X.25 protocol conversion as an enhanced service that is integrated with underlying basic services pursuant to the terms of the *Asynchronous / X. 25 Waiver Order* of 1985. Finally, while Florida states in its petition that protocol conversion in connection with BOC packet switching offerings will be a "local service," it does not ask us for any particular relief associated with this statement. We simply observe that we preempted state tariff regulation of enhanced services, such as protocol processing, in *Computer II*, and that we have not revoked that preemption in this proceeding.[60]

B. ***CEI / ONA Requirements for Protocol Processing***

28. The *Phase II Order* imposed four CEI/ONA conditions on BOC provision of protocol processing. These generalized requirements are based on the principles of our *Asynchronous / X. 25 Waiver Order*. We stated that in an appropriate implementation of these requirements, a BOC would provide: (a) multiplexed transmission from its end offices to a VAN facility; (b) unbundled access by end users to underlying BOC or VAN transmission networks through a nondiscriminatory user/network interface; (c) interoffice channels at tariffed rates to both BOCs and VANs; and (d) the addition of the NURE to the BOCs' underlying basic service tariff. We also applied our CEI pricing requirement to protocol processing. Finally, we applied somewhat different requirements to AT&T. AT&T must provide enhanced service providers with nondiscriminatory access to underlying AT&T basic services and must take those services for its own enhanced operations at standard tariffed rates. On reconsideration, a number of BOCs ask us to make changes in four areas: multiplexing, the NURE requirement, CEI pricing requirements, and the rules applicable to AT&T. We address each of these issues below.

1. *Multiplexing at BOC End Offices*

a. *Positions of the Parties*

29. Ameritech and Southwestern Bell ask us to clarify the role of BOC-provided multiplexing in satisfying our CEI/ONA requirements for protocol processing. Ameritech states that the *Phase II Order* "can be read to specify that *multiplexing*, and only multiplexing, is an acceptable access arrangement for VANs.[61] Ameritech requests that we "clarify that the *Phase II Order* does not mandate the implementation of a particular technology as the only acceptable CEI solution available for protocols processing."[62] Southwestern Bell requests that "[t]he Commission should clarify that if a BOC foregoes the advantage of short wire costs (by charging its enhanced service operations an averaged access link cost the same as that applied to non-collocated [enhanced service providers]), then the multiplexed access requirement will not apply.[63]

30. In discussing the specific issue of the provision of VAN interconnection loops, BellSouth assumes that the CEI/ONA conditions of the *Phase II Order* require "that a BOC providing protocol processing must also provide multiplexed access from its central offices to VAN premises . . . . BellSouth claims that this requirement will prove onerous and lead to increased costs and inefficiencies.[64]

31. In their responses, ADAPSO, IBM, Telenet, Tymnet, and US West state that we have cited the multiplexing solution as an appropriate implementation, rather than a mandatory requirement, of the CEI/ONA rules, Those parties indicate that they do not object to the clarification proposed by Ameritech.[65] Moreover, no party objects to Southwestern Bell's proposed clarification.

b. *Discussion*

32. As Ameritech requests, we clarify that multiplexing is not the only way to fulfill our CEI/ONA requirement that protocol processing transmission costs be minimized. We did not intend to make multiplexing mandatory. In discussing the CEI requirements for protocol processing in the *Phase II Order*, we used the principles of the *Asynchronous / X. 25 Waiver Order* as a paradigm, and referred to multiplexing as "an appropriate implementation" of these requirements.[66] While we intended that multiplexing be contemplated as one way to implement CEI for protocol processing, we recognized, as IBM has noted, [67] that it need not be the only solution. The provision of cost-effective comparably efficient interconnection is not dependent upon any specific technology. This is also clear from our *Phase I Order* which described the "minimization of transport costs" requirement in the following terms:

> [W]hile we do not impose mandatory collocation requirements on carriers subject to CEI, we do require such carriers to provide others with interconnection facilities that minimize such transport costs. Loop or trunk multiplexing is one technique for minimizing such costs. A collocation policy voluntarily adopted is another option. We require carriers to demonstrate in their CEI Plans what steps they will take to reduce transport costs for competitors. We further direct such carriers to work with CEI subscribers in good faith to develop techniques to minimize such costs.[68]

33. The so-called multiplexing requirement in the *Phase II Order* was a specific application of this general CEI requirement. But in that case, as in the *Phase I Order*, the reference to multiplexing was intended to be exemplary, not mandatory. Other cost minimization methods are permissible and are encouraged to the extent that such methods achieve our CEI goals effectively.

34. Our original discussion of the cost minimization requirement in the *Phase I Order*, quoted above, is also useful in addressing Southwestern Bell's petition. Since we have indicated that collocation would satisfy the requirement, we conclude that Southwestern Bell's proposal, which appears to offer the functional equivalent of collocation, is satisfactory. We note that no party has opposed this part of Southwestern Bell's petition. Accordingly, we clarify, as Southwestern Bell requests, that a carrier may satisfy this CEI/ONA requirement if it charges itself an access link rate that is the same as that paid by non-collocated enhanced service providers, provided that the access connections in each case are equivalent in technical quality. Thus, for example, if a carrier provides CEI for a protocol processing service to VANs using flat-rate business lines, it may satisfy our CEI requirements by charging its own enhanced service operations the same flat rate for an interconnection of equivalent quality.

2. *The NURE Requirement*

35. The *Phase II Order* required imposition of a NURE, when appropriate, as an additional basic service charge upon those end users who are receiving BOC protocol conversion service in conjunction with basic packet switching service.[69]

a. *Positions of the Parties*

36. Ameritech petitions us to reconsider the NURE requirement.[70] Ameritech states that the *Phase II* comments "demonstrated that it [NURE] imposed far more real burdens than benefits."[71] Ameritech also claims that we have ignored the implications of the imposition of the NURE requirement by assuming that (a) all protocols processing is essentially alike, and (b) implementation delays will not take place since the compliance plans required by the *Asynchronous / X. 25 Waiver Order* are already in operation. Ameritech argues that the introduction of new technologies will be delayed and inefficiencies will occur, and that so-called "family plan" approvals for future CEI plan filings will not be possible because each "NURE must be tailored to address the alleged inefficiencies each particular protocols processing episode exacts on the underlying data transport."[72] Finally, Ameritech states that the NURE concept is not practical and lacks "real economic foundation."[73]

37. Southwestern Bell "strongly endorses Ameritech's request for all of the same reasons advanced by Ameritech."[74] Southwestern Bell argues that alternatives are more suitable for remedying any throughput inefficiencies that may result when asynchronous calls are processed by packet switches. It notes that this was the rationale for the imposition of NURE in the *Asynchronous / X. 25 Waiver Order*. [75]

38. BellSouth also attacks the NURE.[76] It claims that the NURE requirement provides an incentive for the procurement of zero-NURE switches and that the installation

of zero-NURE switches could lead to inefficiencies in network performance. No party specifically opposes the Ameritech proposal.

b. *Discussion*

39. We concur with Ameritech and Southwestern Bell that the NURE requirement should be abolished. NURE is difficult to measure objectively. It is a function of statistical traffic patterns, equipment design (buffer size and number of ports), and software. During peak traffic periods, an installation at which NURE is being measured may exhibit the most degradation; at off-peak periods, the degradation may be non-existent. Indeed, in many instances, a NURE penalty would be imposed when there is no degradation.[77] It is quite conceivable that the costs imposed by measuring the NURE effect, preparing the appropriate tariffs, and delaying the CEI plan process when new protocols and new equipment are introduced, outweigh any benefits the NURE requirement might produce. Furthermore, we agree with BellSouth that the NURE requirement could create incentives to secure zero-NURE switches, which in turn could create network inefficiencies. Therefore, we will eliminate the NURE requirement.

3. *Price Averaging Rules for Protocol Processing*

40. The *Phase I Order* requires tariffs for BSEs and CEI offerings that include a component for transmission costs, which may be priced on a distance-sensitive basis, and two other components, the Basic Interconnection Charge and the Basic Concentration Charge, that are to be priced on an averaged basis. The Basic Interconnection Charge is designed to recover the costs of the interconnection facilities (including the hardware and software necessary to provide routing, signaling, and other underlying basic service functions) that the carrier and others need to provide enhanced services integrated with basic network functions. The Basic Concentration Charge is designed to recover the costs of traffic concentration equipment, such as multiplexers, located on a carrier's premises to deliver efficient transmission to enhanced service providers that are not collocated with the carrier's basic service facilities. The price averaging required for these charges contemplates that a carrier's enhanced service operations will pay a share of the Basic Interconnection Charge and the Basic Concentration Charge even if they do not use some facilities, such as traffic concentration equipment, that other enhanced service providers use. We reaffirmed the CEI/ONA pricing requirements generally in the *Phase I Recon Order*, and, in the *Phase II Order*, imposed these pricing requirements on protocol processing used with packet services.

a. *Positions of the Parties*

41. Ameritech petitions us to eliminate the protocol processing CEI price averaging requirements for both the Basic Interconnection Charge and the Basic Concentration Charge.[78] It states first that "[the averaging of the] interconnection and concentration costs of the public data network with those of the dedicated access arrangements ordered for the private networks of other packet switching vendors . . . destroys the value of . . . integration . . . [and] makes basic service ratepayers subsidize private competitive networks."[79] Moreover, Ameritech claims our price averaging rules will diminish a carrier's motivation to integrate public voice and data networks.[80]

42. Second, Ameritech claims that averaged pricing rules should not be applied to protocol processing because it is fundamentally different from other enhanced services. According to Ameritech, the averaging rules should be applied only when several enhanced service providers share the same basic service facilities for interconnection and traffic concentration. In the case of protocol processing, Ameritech argues, BOCs and VANs will not generally be sharing facilities because of the integrated nature of protocol processing.[81] Ameritech thus contends that the application of the averaged pricing requirements to protocol processing is not consistent with the purposes of price averaging under *Computer III*.

43. The ADAPSO response states that "[t]he objections voiced by Ameritech and Pacific to the application of CEI pricing standards to protocol conversion are totally without merit. The carriers raise nothing that has not already been considered and rejected by the Commission in its Phase II *Report and Order*, as well as in its Phase I *Order on Reconsideration*."[82] Compuserve claims that the BOCs have not substantiated the costs of the CEI pricing rules,[83] and Tymnet specifically attacks Ameritech's claim that basic service subscribers will subsidize private network providers.

44. IBM claims that the CEI pricing requirements do not unduly extend our previous rulings. It cites the Bureau's *New York Telephone Order*, which found that the "comparable pricing condition for DOV access of Paragraphs 134-135 of the [*Asynchronous / X. 25 Waiver Order*] is best satisfied through the CEI pricing standards of the [*Phase I Order*]."[84] IBM further observes that we upheld the general price averaging requirement of the *Phase I Recon Order*.[85]

45. US West does not oppose the CEI price averaging requirement, stating that Ameritech reads it too restrictively. US West claims that "[i]n some cases equal access to packet networks will best be served by averaging some interface and concentration costs. In other cases other pricing alternatives may better suit the needs of the market place."[86]

b. *Discussion*

46. We deny Ameritech's petition and retain the price averaging requirements for protocol processing. We are not persuaded by Ameritech's arguments for changing these requirements as they apply to protocol processing, particularly in light of our extensive analysis of such requirements in the *Phase I Order* and the *Phase I Recon Order*. Indeed, we specifically disagree with several of Ameritech's arguments that purport to justify reconsideration of the price averaging requirements. For example, it is incorrect to say, as Ameritech does, that these requirements will cause "basic service ratepayers" to subsidize private competitive networks (presumably, the VANs). Under our averaging requirements, the enhanced service operations of AT&T and the BOCs, which will be offering unregulated protocol processing, will pay tariffed rates for the basic services that support their activities that are the same as those paid by other enhanced service providers. Thus, the customers of the BOCs' unregulated enhanced services, not the basic service ratepayers, will ultimately bear the cost of our requirements.[87]

47. We also do not accept Ameritech's claim that we misapplied the CEI averaged pricing requirements in the *Phase II Order* because those requirements were not designed to deal with highly integrated enhanced services

such as protocol processing. While Ameritech attempts to depict protocol processing as being different from other enhanced services because of its integration with basic services, we expressly considered the effects of such integration in establishing the Basic Interconnection Charge, just as we considered the effects of not requiring collocation in establishing the Basic Concentration Charge. By requiring price averaging for these charges, we created incentives for the carriers to provide the least expensive, most efficient forms of interconnection and traffic concentration possible to competitors that need access to carrier facilities. The averaging of the Basic Concentration Charge was, in part, adopted as an alternative to mandatory collocation. To the extent that collocation is provided, or that traffic concentration is not needed to provide efficient transmission, this charge does not apply.

48. Contrary to the petitioners' arguments, the record does not support a finding that protocol processing is so unique that it must be accorded pricing treatment that differs from that applicable to all other enhanced services. While the facilities that support protocol processing are highly integrated with basic service switching facilities, it is reasonable to assume that other enhanced service also will be highly integrated. Indeed, in the future, such physical integration could be a highly desirable result of the structural relief we have provided for the enhanced offerings of the BOCs and AT&T.[88] Accordingly, we believe that our extensive analysis of the CEI/ONA pricing requirements contained in earlier Orders in this proceeding for enhanced services generally applies to protocol processing. The *Phase I Order* and the *Phase I Recon Order* reflect a balancing of a number of competing interests that are as applicable to protocol processsing as other enhanced services. Thus, if a change in the pricing requirements is necessary for protocol processing, it would be equally necessary for all other enhanced services. We expressly affirmed the pricing requirements in the *Phase I Recon Order*.

49. The petitioners' most salient concerns can be addressed, in large part, by the clarifications and amendments that we have adopted in other sections of this Order. For example, Ameritech and others argue generally that the "multiplexing requirement" is inefficient and that the price averaging requirement exacerbates that inefficiency by improperly charging the BOCs for facilities and services that they do not use. As we have held in this Order, neither multiplexing nor any other specific form of traffic concentration is required; the carriers need only minimize transmission costs through some means or charge themselves the same rates that they charge others. Moreover, the elimination of the NURE, as Ameritech requested, removes a regulatory burden that uniquely affected the BOCs' protocol processing offerings. Thus, under the CEI/ONA rules we have adopted in this proceeding, the BOCs should be able to offer protocol processing on an efficient, integrated basis in competition with the non-carrier providers of this service.

4. *Applicability of BOC CEI Requirements to AT & T*

50. We adopted CEI requirements for AT&T protocol processing that are less extensive than those applied to the BOCs because the BOC CEI requirements were designed primarily for carriers that provide local exchange service. We required AT&T to provide to others, on a nondiscriminatory basis, the digital transmission services facilities that underlie its enhanced services that use protocol processing, and to take AT&T services and facilities that it uses for its own enhanced services operations at the standard tariffed rates it charges to others. As a consequence, the NURE requirement and the requirement to minimize the costs of facilities from BOC end offices to VAN facilities do not apply to AT&T.

a. *Positions of the Parties*

51. Southwestern Bell claims that as a matter of equity, we should subject AT&T to the same set of CEI requirements for protocol processing services that we applied to the BOCs in the *Phase II Order*.[89] Specifically, Southwestern Bell urges us to impose a "multiplexing requirement" and a NURE on AT&T. AT&T opposes the Southwestern Bell petition, claiming that the CEI requirements we established in the *Phase II Order* for its offering of protocol processing are properly based on the fact that it does not have bottleneck facilities and is not a monopoly carrier.[90]

b. *Discussion*

52. We deny Southwestern Bell's petition. For the reasons stated in the *Phase II Order*, which focus on the differences between the types of facilities controlled by the BOCs and those controlled by AT&T, the CEI requirements established for AT&T are appropriate. In any event, our clarification on the use of multiplexing, and the elimination of the NURE requirement, moot the applicability of these requirements to AT&T.

C. *Internetworking Protocol Conversions*

53. The *Phase II Order* stated that we would continue to treat internetworking protocol conversions, such as X.25/X.75, as basic services since the packet transport networks that are being interconnected are themselves being used to provide basic service. We found that although this treatment always applies, it does not relieve the interconnected carriers from treating any net protocol conversion as an enhanced service.[91]

1. *Positions of the Parties*

54. The Southwestern Bell petition says that the basic service status of internetworking protocol conversion should not be conditioned on the net protocol conversion test. Southwestern describes some general difficulties with applying the net protocol conversion test when two carriers internetwork to offer, for example, an interLATA packet switching service with protocol conversion.[92] Siemens also recommends that we clarify the basic status of the X.25/X.75 conversion.

55. ADAPSO and Tymnet oppose the petition. They interpret Southwestern Bell as positing an asynchronous/X.75 conversion as an internetworking conversion that should be treated as basic. ADAPSO argues that this is misleading because the two types of conversion at issue, asynchronous/X.25 and X.25/X.75, are always performed separately and "[t]here thus exists no difficulty in distinguishing between the two types of conversions."[93] ADAPSO claims that abolishing the net conversion test would alter the nature of the enhanced services definition and that "[t]his aspect of Southwestern's position is thus a backdoor request for reconsideration of Alternative A."[94] ADAPSO also says the Southwestern petition amounts to a request for the reconsideration of the *X. 25 / X. 75 Waiver Order* [95] and that the petition should be rejected on procedural and substantive grounds.

56. Tymnet also opposes the petition.[96] It argues that even if the net protocol conversion test did not apply, any asynchronous/X.75 protocol conversion would always be an enhanced service, since such a conversion actually consists of a serial asynchronous/X.25/X.75 conversion, and the asynchronous/X.25 conversion included in the process is enhanced. Like ADAPSO, Tymnet claims that the majority of internetworking applications would involve communications from an end user with an asynchronous terminal through a BOC acting as a gateway to an interstate VAN, such as Tymnet, to an X.25 port on a host computer. Thus, Tymnet argues, "adoption of . . . Southwestern Bell's proposal would be tantamount to adopting Alternative A for the majority of the BOCs' current protocol conversion offerings."[97]

2. Discussion

57. The goal of Southwestern Bell's petition is unclear. To the extent that it asks us to clarify that internetworking protocol conversions, such as X.25/X.75, are always treated as basic, or essentially neutral, functions, we grant the petition, since the basic status of these conversions coexists with, but does not depend on, the net protocol conversion test.[98] However, to the extent that Southwestern Bell is seeking to expand the basic status of internetworking protocol conversion to reach user/ network/internetworking protocol conversions, such as asynchronous/X.25/X.75, as its opponents claim, we reject its petition. We do not intend our treatment of the internetworking function to undermine the enhanced status of protocol conversion generally by rendering as basic all communications of which internetworking is a part.

IV. NONSTRUCTURAL SAFEGUARDS FOR THE ENHANCED SERVICE OPERATIONS OF AT&T AND THE BOCS

A. *Nondiscrimination Reporting Requirements*

58. The *Phase II Order* required AT&T and the BOCs to file quarterly reports comparing the timing of installation and maintenance, as well as the quality and reliability, of CEI/ONA tariffed services that they provide to affiliated and nonaffiliated enhanced service providers.

1. Quality Reports

a. AT & T

(1) Positions of the Parties

59. AT&T seeks elimination of the quality reporting requirement. It notes that our *AT & T Structural Relief Reconsideration Order* [99] declined to require quality reporting for AT&T's provision of CPE because we found that such reports were unnecessary to protect against discrimination and imposed unwarranted costs and administrative burdens on AT&T. AT&T argues that quality reporting is as unnecessary and burdensome in the enhanced services context.[100]

60. AT&T maintains that quality reporting is unnecessary in the enhanced services context because it assigns circuits and equipment to all of its customers through a highly mechanized process on a "first-come, first- served" basis.[101] It states that the systems it uses in this process do not contain information identifying a customer as an enhanced service provider, or information on the comparative quality of available circuits and equipment. Indeed, AT&T states, its network systems do not contain these data.[102] Thus, it states, it lacks the ability to discriminate in circuit design or facility assignment.

61. AT&T also argues that quality reporting would not be meaningful. It states that there is no universally applicable measure of quality that could be used in its reports, since each basic service has a range of operating parameters, some or all of which may not be relevant to other applications.[103] AT&T further states that any quality report it might provide would not be a valid indicator of an end user's overall service quality, since the quality of an end-to-end circuit is determined in part by the LECs.[104]

62. AT&T additionally argues that the quality reporting requirement would be extremely burdensome and costly. It states that its quality testing procedures are currently limited to determining whether a circuit meets its tariffed standard, and that it has no procedures in place for recording test results and matching them with customer records.[105] AT&T states that in order to generate quality reports, it would thus have to redesign its service provisioning and testing procedures and develop a centralized data base to track the necessary data. This, it states, would cost "millions of dollars, both initially and on an ongoing basis . . . ."[106]

63. Finally, AT&T argues that it cannot generate quality reports because it does not gather information to identify its customers as enhanced service providers.[107] It further argues that it would not be feasible to identify unaffiliated enhanced service providers by survey because such vendors would likely be unwilling to make such disclosure.

64. Ameritech, BellSouth, and Bell Atlantic support AT&T's petition.[108] ANPA, IDCMA, and Compuserve oppose AT&T's petition.[109] ANPA and Compuserve assert that the level of competition in enhanced services depends on the quality and reliability of the network services used by enhanced service providers. Compuserve argues that by manipulating the quality of the basic services it provides enhanced service providers, AT&T can directly influence the quality of service offered by its competitors, thereby attaining an unfair competitive advantage in the enhanced services market. It states that AT&T does not have this leverage over CPE competitors and that AT&T's reliance on the *AT & T Structural Relief Reconsideration Order* is thus misplaced.[110]

65. IDCMA disputes AT&T's claim that AT&T's mechanized installation procedures preclude the possibility of discrimination in the quality of its network services. It states that notwithstanding this mechanization, there is still room for human input in the circuit provisioning process.[111] IDCMA also takes issue with AT&T's argument that the quality reports would not be meaningful. While acknowledging that some performance parameters are more important to certain kinds of enhanced services than others, it argues that AT&T is capable of identifying a set of parameters that could be useful to a broad spectrum of enhanced service providers.[112] Dismissing as a "red herring" AT&T's claim that quality reports could not reveal end-to-end circuit quality because part of the circuit is provided by a LEC, IDCMA asserts that the primary purpose of the reports would be to reveal discrimination by AT&T, not end-to-end quality.[113] IDCMA also responds to AT&T's claim that the cost of generating quality reports would be excessive. It argues that AT&T did not

substantiate this claim and that AT&T already is performing most of the relevant tests for generating quality data, so that preparation of quality reports would merely entail the additional step of compiling appropriate data.[114] And finally, IDCMA states that quality reports would not be impossible to generate, as AT&T claims. It states that AT&T could identify enhanced service providers through surveys conducted by an outside firm. According to IDCMA, enhanced service providers would not be reluctant to identify themselves if they were guaranteed that this information would be treated confidentially.[115]

(2) *Discussion*

66. Although we conclude that the quality reporting requirement should not be retained if AT&T lacks the ability to engage in systematic discrimination, we do not lift this requirement for AT&T at this time. While AT&T has made a credible general showing in its petition that its provisioning procedures preclude quality-based discrimination, we have decided that it should further substantiate its showing with a more detailed description of its installation processes. Therefore, in order to evaluate more fully whether the quality reporting requirement for AT&T should be removed, we require AT&T to amend its ONA plan on or before March 10, 1988, to include a detailed description of its installation procedures that demonstrates its inability to engage in quality-based discrimination.[116] We will evaluate this amendment with the rest of AT&T's ONA plan. If we approve AT&T's amendment, we will remove the quality reporting requirement for AT&T on condition that it submits annually an affidavit, signed by the AT&T officer with principal responsibility for installation operations, attesting that AT&T has followed the installation procedures described in its ONA plan, as amended, and that it has not, in fact, discriminated in the quality of network services provided to its own enhanced services operations and to unaffiliated enhanced service providers.[117] We delegate to the Bureau authority to review the annual affidavit that AT&T will be required to file if its quality reports are eliminated to ensure that AT&T is adhering to its nondiscriminatory procedures.[118] We discuss below our reasons for permitting AT&T to make a further showing concerning this requirement.

67. In the *AT & T Structural Relief Reconsideration Order*, we declined to require AT&T to file monthly quality reports based on the source of a customer's CPE because we found such reports to be both unnecessary, in light of AT&T's circuit provisioning procedures, and burdensome.[119] We stated that under the circumstances, a quality reporting requirement would be "inconsistent with our objective of intruding on AT&T's internal procedures only to the extent necessary to ensure our regulatory goals are achieved."[120] We have concluded that similar considerations apply here.

68. The circuit provisioning and equipment assignment procedures described in the AT&T petition appear largely to preclude discrimination by AT&T in favor of its enhanced services operations. AT&T states that it assigns available circuits and equipment on a "first-come, first-served" basis through highly mechanized procedures that neither depend on, nor are affected by, whether a particular customer is an affiliated or unaffiliated enhanced service vendor. According to AT&T, its circuit assignment systems do not contain information either on the identity of its customers or the relative quality of the available trunks or equipment. Indeed, AT&T states that it does not even test its trunks and equipment for quality beyond determining that they meet the tariffed standards. Furthermore, AT&T's provisioning systems appear to be blind to the use that a customer will make of its facilities. AT&T indicates that it does not attempt to determine, or otherwise gather information on, whether a customer ordering installation service is an enhanced service provider, and that many enhanced services will rely on basic network services that are no different from those used by AT&T's other customers.[121] Given these circumstances, the likelihood of quality- based discrimination by AT&T seems small.[122]

69. Compliance with the quality reporting requirement by AT&T could also be burdensome and costly. AT&T states that it does not currently test its circuits beyond determining that they meet tariffed standards and that it does not collect or record test results. Thus, in order to generate the quality reports required in the *Phase II Order*, AT&T would have to revise its testing procedures and create a tracking system to record its test results. The *AT & T Structural Relief Reconsideration Order* found that these same modifications, which AT&T claimed were necessary to generate quality reports for CPE, would impose "substantial costs" on AT&T.[123] These costs would be no less in the context of an enhanced service quality reporting requirement.

70. We are also concerned that requiring AT&T to refine its quality testing procedures and to gather and track data on customer usage of AT&T's network facilities might increase AT&T's ability to engage in quality-based discrimination against its enhanced service competitors and their customers, at least on a selective basis.[124] We do not wish to impose a reporting requirement that may in itself become a vehicle for discrimination.[125] IDCMA suggests that, rather than gather information on enhanced service providers when they order service, AT&T could employ an outside survey firm to identify enhanced service providers from among its network customers. However, we believe that this suggestion is not practical. Presumably, only a very small percentage of AT&T's customers will be enhanced service providers. Thus, a survey firm would have to interview an extraordinary number of customers in order to obtain a meaningful sample of enhanced service providers for a comparative report.[126]

71. Although we believe that, for the foregoing reasons, the quality reporting requirement should not be retained if AT&T lacks the ability to engage in systematic discrimination, we emphasize that this is a particularly sensitive area. We recognize that enhanced service providers, unlike CPE vendors, incorporate basic network services into the very products they offer to the public, and that theoretically AT&T could directly affect the quality of the products of its enhanced service competitors by assigning them inferior circuits. We further recognize that, because enhanced services are necessarily integrated with network services in a way that CPE is not, it might be more difficult for an end user to detect quality-based discrimination in the enhanced services context than in the CPE context. While these factors do not override our findings that the quality reports we required in the *Phase II Order* would prove unnecessary, burdensome, and potentially counterproductive, we wish to make clear that we will carefully examine the ONA plan amendment described above, and, if we approve that amendment, the annual affidavits that AT&T will be required to file. We will view with deep concern any indications that AT&T is providing

better quality service to its own enhanced service operations than to its enhanced service competitors. Should there emerge a verifiable pattern of preferential treatment by AT&T, or of claims by AT&T marketing personnel to potential customers that its enhanced services receive preferential treatment in the provisioning of AT&T network services, we will reevaluate whether more substantial regulation, including a quality reporting requirement, is necessary.

b. *The BOCs*

(1) *Positions of the Parties*

72. In supporting AT&T's request that it be relieved of the quality reporting requirement, BellSouth, Ameritech, and Bell Atlantic ask us to extend any relief granted to AT&T to the BOCs.[127] Only BellSouth and Ameritech elaborate extensively on this request.[128]

73. BellSouth states that, like AT&T, it tests circuits only to determine if they are within tariffed parameters, and not to make quality comparisons between them.[129] Thus, it states, it does not currently have the means to compare quality of circuits assigned to affiliated and unaffiliated customers. BellSouth also argues that it does not gather information on which of its customers are enhanced service providers and that the BOCs cannot force customers to reveal this information. BellSouth maintains that because it is highly unlikely that many enhanced service providers would choose to make such disclosure, any records the BOCs could develop for their reports would be incomplete.[130] Like AT&T, BellSouth argues that meaningful comparisons of quality and reliability cannot be made, [131] and that a quality reporting requirement would require it to develop systems that it does not currently have to correlate quality information with specific customers. It claims that the requirement would thus facilitate, rather than prevent, discrimination.[132]

74. Ameritech states that the record in this proceeding is completely bereft of any evidence that carriers engage in discrimination, and that it would be difficult for any of its employees even to attempt quality-based discrimination.[133] It states that its installation and maintenance procedures are blind to the identity of the customer, and that its employees do not know whether a particular customer is an enhanced service provider unless that customer identifies itself as such.[134] Like AT&T, it states that quality reports would provide very little useful data and would be extremely costly to generate.[135] Finally, it argues that the quality reporting requirement would increase the risk of discrimination by forcing carriers to obtain and track quality and customer information that they currently lack, and that the requirement is thus antithetical to its purpose.[136]

75. IDCMA opposes the requests of BellSouth, Bell Atlantic, and Ameritech for relief from the quality reporting requirement on the same grounds that it opposes AT&T's petition. IDCMA also notes that the BOCs did not seek relief, as they should have, in a petition for reconsideration.[137] Neither IDCMA nor any other party argues that the BOCs should be treated differently from AT&T with respect to the nondiscrimination reporting requirements.

(2) *Discussion*

76. Given that no BOC petitioned for reconsideration of the quality reporting requirement and that in the response round only BellSouth and Ameritech discuss in any detail their requests for elimination of the requirement for them, in this Order we do not remove the quality reporting requirements that apply to the BOCs. However, we see no reason to deny a BOC the opportunity to demonstrate that its installation procedures are nondiscriminatory and that the quality reporting requirement should be eliminated. Thus, we will consider elimination of this requirement only for each BOC that demonstrates in an amendment to its ONA plan filed on or before March 10, 1988, that it cannot discriminate in the quality of service that it provides to affiliated and unaffiliated enhanced service vendors. Each BOC must describe with particularity its provisioning procedures and how such procedures preclude discrimination.[138] If we remove the quality reporting requirement on the basis of a BOC's amendment, that BOC will be required to file, on an annual basis, an affidavit, signed by the officer principally responsible for installation procedures, attesting that it has followed the procedures described in its ONA plan, as amended, and that it has not, in fact, discriminated with respect to the quality of services it has provided.[139]

77. We recognize that the BOCs face less competition than AT&T in the provision of their network services. Even given this lack of competition, we believe that the procedures discussed in the preceding paragraph will permit us to evaluate whether the quality reporting requirements for the BOCs should be replaced.[140] Moreover, in reviewing each BOC's amendments to its ONA plan, we will consider with care the efficacy of its procedures in foreclosing discrimination. As with AT&T, if those plans do not establish that the BOCs' procedures are sufficiently "neutral," we will require modifications or to deny relief from the quality reporting requirement.[141]

2. *Format of Installation and Maintenance Reports*

a. *AT & T*

(1) *Positions of the Parties*

78. In addition to requesting the elimination of the quality reporting requirement, AT&T asks that it be permitted to provide installation and maintenance reports only for its own enhanced services operations. AT&T states that this is the reporting format it follows for noncollocated enhanced services pursuant to the *AT & T Limited Waiver Order*, [142] and contends that this format is the only one possible for enhanced services generally because it does not distinguish unaffiliated enhanced service providers from its other network service customers.[143] AT&T claims that this format would provide enhanced service vendors with a benchmark which they could compare their own installation and maintenance intervals.[144] It further states that the procedures needed to implement such a requirement are already operational. BellSouth, Ameritech, and Bell Atlantic support AT&T's request.

79. ANPA and Compuserve criticize AT&T's proposed reporting format. Compuserve argues that because the reports under this format would reflect only AT&T's dealings with its enhanced services operations, the data would be easy for AT&T to manipulate and impossible for us to verify.[145] ANPA asserts that AT&T's reports will be useful in detecting anticompetitive behavior only if they provide data on AT&T's provision of network services to its en-

hanced service competitors that can be compared with data on AT&T's provision of network services to its own enhanced service operations. ANPA criticizes AT&T's proposal on the ground that it would provide no such basis for comparison.[146] ANPA argues that the current reporting requirements strike the appropriate balance between ensuring nondiscrimination and minimizing intrusion into carrier processes.[147]

(2) *Discussion*

80. We deny this AT&T request. However, we modify the reporting requirement to permit AT&T to file reports comparing installation and maintenance intervals provided to its own enhanced service operations with intervals provided to a sampling of all customers using each service on which AT&T will report.[148]

81. AT&T claims that, in providing installation and maintenance services, it does not determine, or attempt to gather and record information on, whether a particular network service customer is an unaffiliated enhanced service provider. No party effectively refutes this contention.[149]

82. We do not, however, permit AT&T to file installation and maintenance data only for its own enhanced services operations, as AT&T requests, since such a format has certain limitations in detecting and preventing discrimination. Individual installation and maintenance intervals will necessarily deviate from the average intervals that AT&T provides to its enhanced service affiliates. Thus, an enhanced service provider that experiences a longer interval will not be able to determine whether its service interval is a result of discrimination. The modification to the installation and maintenance reporting requirement that we now adopt will provide enhanced service providers and other interested persons with a basis for evaluating and comparing data on installation and maintenance intervals provided by AT&T to its own enhanced service operations, while eliminating the need for AT&T to identify and track the installation and maintenance experience of unaffiliated enhanced service providers.[150]

b. *The BOCs*

(1) *Positions of the Parties*

83. BellSouth, Ameritech, and Bell Atlantic ask this Commission to extend any relief granted AT&T to the BOCs. They argue that they, like AT&T, do not gather information which identifies their network service customers are unaffiliated enhanced service providers, and thus, cannot meet the installation and maintenance reporting requirement as it now exists.[151]

(2) *Discussion*

84. No party argues that there is any substantive basis for treating AT&T and the BOCs differently with respect to the installation and maintenance reporting requirement. Indeed, to the extent that BellSouth, Ameritech, and Bell Atlantic contend that they do not systematically determine which of their basic service customers are unaffiliated enhanced service providers, they present the same grounds for relief as did AT&T. However, these three BOCs are the only ones that request a modification of the installation and maintenance reporting requirement. The other BOCs did not address the issue. Accordingly, we do not modify the format for the BOCs' installation and maintenance reports at this time.[152] We do permit the BOCs to amend their ONA plans on or before March 10, 1988, to include a detailed description of their installation and maintenance procedures that demonstrates that they lack the ability to discriminate.[153] If we are convinced that the BOCs do not have such an ability, we will modify the installation and maintenance reporting format for them as we have for AT&T.[154]

B. *Customer Proprietary Network Information*

85. We adopted CPNI requirements for the enhanced service operations of AT&T and the BOCs that are essentially identical to those for the CPE operations of these companies. Specifically, we required AT&T and the BOCs to (1) make CPNI available, upon customer request, to unaffiliated enhanced service vendors on the same terms and conditions that are available to their own enhanced services personnel; (2) limit their enhanced services personnel from accessing a customer's CPNI, if the customer so requests; and (3) notify multiline business customers annually of their CPNI rights. We also required the BOCs, but not AT&T, to provide unaffiliated enhanced service vendors any nonproprietary, aggregate CPNI that the BOCs provide to their own enhanced services personnel. This information must be provided to unaffiliated vendors on the same terms and conditions that are available to their own enhanced service operations.[155]

1. *BOC Use of Customers'CPNI*

a. *Positions of the Parties*

(1) *The NYCHA / CCTU Petition*

86. NYCHA/CCTU seeks reconsideration of our rule governing use of CPNI by the BOCs' enhanced services operations. It characterizes the rule as providing the BOCs' enhanced service operations with virtually automatic access to customers' CPNI. It claims this is unfair, since unaffiliated vendors are not permitted such access to CPNI. It says BOC enhanced services personnel should not be allowed to use a customer's CPNI absent specific prior authorization by the customer.

87. NYCHA/CCTU argues that network usage information is much more valuable in marketing enhanced services than CPE, since enhanced services depend more on specific underlying basic services for their operation. It states, for example, that the CPNI of enhanced service vendors and their customers can be analyzed to reveal the identity, location, and relative size of the vendors' largest customers.[156] Indeed, it continues, the CPNI of enhanced service vendors reveals both the identity of their customers and the precise types and volumes of enhanced services they are providing at each moment in time.[157]

88. NYCHA/CCTU argues that the current CPNI rule should be changed because it shifts to BOC network service customers the burden of restricting BOC use of their CPNI, and with it, the "risk that something will slip between the cracks."[158] It claims that a letter notifying customers of their CPNI rights that is not sent to the correct official may not receive timely attention, and that a billing insert with this information may easily be discarded as "junk mail."[159] This danger, they state, is particularly acute for large users, whose bills are generally

sent to accounts payable departments, rather than to officers who will understand and act on the issues involved in the CPNI election.

(2) *Comments Supporting the Petition*

89. API, ATSI, IDCMA, MCI, NATA, and Telocator support NYCHA/CCTU's petition for reconsideration of the CPNI rules. In addition, ANPA urges us to restrict further the use of CPNI by prohibiting carriers from disseminating CPNI under any circumstances.[160] These parties generally restate or elaborate on one or more of the arguments of NYCHA/CCTU.

90. Several parties, for example, argue that the CPNI of enhanced service providers and their customers is particularly valuable to enhanced service marketers.[161] Otherwise, they state, the BOCs would not have argued so strenuously for the current CPNI rules.[162] They claim that because of the close connection between enhanced services and network services, CPNI can provide a carrier with sensitive and valuable information about enhanced service vendors' customer bases, costs, service offerings, marketing plans, and successes in particular markets.[163] Some parties also claim that the current CPNI rule will result in "authorization by oversight."[164]

(3) *Comments Opposing the Petition*

91. All of the BOCs and USTA oppose NYCHA/CCTU's petition. NYNEX, PacTel, and BellSouth emphasize our finding in the *Phase II Order* that the most valuable information for marketing enhanced services is not CPNI, but information obtained from the customers themselves.[165] NYNEX also cites our finding that the value of CPNI is substantially lessened by enhanced service customers' knowledge of competitive alternatives to BOC enhanced service offerings.[166]

92. BellSouth disputes NYCHA/CCTU's assertion that CPNI reveals the precise type and quantity of service that an enhanced service vendor is providing to each customer at every moment in time.[167] It states that while CPNI reveals the number of access lines that a customer or competitor has ordered, it does not reveal the volume of traffic or the type of enhanced services those lines support. Similarly, Southwestern Bell states that data identifying the number of lines and trunks a customer uses do not disclose the amount of usage on those facilities.[168] BellSouth also argues that large customers, whose CPNI is presumably of particular concern in this proceeding, generally traverse local access and transport area (LATA) boundaries in their operations and communications. Thus, says BellSouth, neither the BOCs nor AT&T have complete records of these customers' communications arrangements or usage characteristics.[169]

93. The BOCs also attack arguments that the current CPNI rule creates a risk of unintentional authorization by omission.[170] These arguments, they state, are based on the completely insubstantiated assumption that large businesses cannot effectively monitor and process their mail. They note that this proceeding and the CPE proceedings have received substantial coverage in the trade press and elsewhere, and they find it inconceivable that those concerned with the confidentiality of their CPNI might inadvertently fail to protect it.[171] BellSouth further contends that industry trade groups and associations are likely to play a role in reminding interested members of their CPNI rights.[172]

94. Some BOCs also state that their CPNI implementation will facilitate the protection of CPNI by their customers and reduce the risk of customers' inadvertent failure to protect sensitive CPNI. BellSouth, Ameritech, and Bell Atlantic, for example, state that any customer wishing to restrict access to its CPNI may notify them at any time, including before it receives notification of its CPNI rights.[173] Bell Atlantic and Southwestern Bell also state that once a customer restricts its CPNI, that restriction will be honored until it is expressly revoked by the customer.[174] Thus, these BOCs' customers would not have to re-restrict their CPNI each year after receiving notice of their right to do so. Southwestern Bell further states that its bill containing the CPNI notice will indicate in prominent lettering that an important legal notice is enclosed.[175]

95. The BOCs further argue that a prior authorization requirement would erode the very efficiencies this Commission sought to promote by abolishing the structural separation requirement.[176] They also contend that such a rule would be confusing to customers in light of the different rule now existing for CPE. In addition, noting that only .01% of its customers who received CPNI notices pursuant to the *Protocol Conversion Waiver Order* [177] even responded to the notice, Ameritech argues that very few customers wish to restrict their CPNI.[178] Finally, PacTel argues that customers reasonably expect that any disclosure of their CPNI outside the company that collected it would be preceded by customer authorization, but that customers have no such expectation with respect to use of CPNI inside that organization.[179]

b. *Discussion*

96. We deny NYCHA/CCTU's petition requesting adoption of the prior authorization rule for the BOCs. Neither it nor any party supporting its petition offers any new arguments demonstrating that the existing CPNI rule should be changed to a prior authorization rule.[180] However, to ensure that our CPNI rule is effectively implemented by the BOCs and AT&T, we impose several specific requirements on these carriers as described below.[181]

97. As we have discussed for the BOCs' CPE operations in the *BOC CPE Relief Reconsideration Order*, [182] the current CPNI rule for the BOCs' provision of enhanced services has a number of advantages over a prior authorization rule. First, it will encourage BOC personnel to develop and market efficient, integrated combinations of enhanced and basic services for the specific needs of customers, without the marketing restrictions imposed by structural separation. In replacing the structural separation requirement with nonstructural safeguards for the enhanced service operations of the BOCs and AT&T, we intended to increase the ability of these carriers to use their networks to offer such integrated services on an efficient basis.[183] Our CPNI rule is a means of promoting this goal while protecting the interests of users and enhanced service competitors. To the extent that the BOCs use CPNI to identify certain customers whose telecommunications needs are not being met effectively and to market an appropriate package of enhanced and basic services to such customers, customers would be benefited.[184] Furthermore, such integrated system solutions offered by the BOCs could generate sales that benefit the enhanced services industry generally, since, after having been approached by a BOC's joint sales force, major customers are likely to solicit offers from competing ven-

dors of enhanced services.[185] Efforts by the BOCs that make consumers more aware of the benefits of enhanced services could expand the market for these services and competing products to the benefit of consumers and providers alike. Second, the CPNI possessed by the BOCs does not endow them with an overwhelming competitive advantage for purposes of marketing enhanced services.[186] Indeed, since the BOCs have been prohibited by the *Modified Final Judgment (MFJ)* [187] from providing most enhanced services, many enhanced service vendors may currently have more valuable competitive information about the enhanced services market than the BOCs. Third, the existing CPNI rule adequately protects the proprietary interests of network service customers, particularly in light of the modifications and clarifications to the rules that we outline below. And fourth, the existing rule is consistent with the CPNI rules governing BOC provision of CPE and AT&T's provision of CPE and enhanced services. This will make it easier for customers to understand and elect their CPNI options. Indeed, contrary to the assertions of NYCHA/CCTU, a prior authorization rule for BOC enhanced services would increase the administrative burden on customers and the likelihood of mistake because conflicting rules for enhanced services and CPE would create confusion.

98. Another advantage of the existing CPNI rule for enhanced services is that it places the burden of responding to the BOCs' CPNI notice on what will probably be the minority, rather than the majority, of users. Clearly, many enhanced service providers will wish to restrict their CPNI from the BOCs' enhanced services operations. However, we anticipate that most of the BOCs' network service customers, including enhanced service users, would not object to having their CPNI made available to the BOCs to increase the competitive offerings made to such customers. Indeed, one of the greatest benefits of efficient carrier provision of enhanced and basic services without structural separation will be the availability of new services to residential and small business customers. Our CPNI rule permits carriers to make these users aware of the enhanced services that are available through the network. Moreover, to the extent that a large percentage of those wishing to restrict their CPNI from BOC enhanced services personnel may be competing enhanced service providers, the current rule places the burden of responding on those most likely to be aware of, and informed about, the issues involved. Many enhanced service providers have participated in this proceeding. Others, no doubt, have become aware of the CPNI issues through coverage in the trade press. Finally, as BellSouth observes, trade groups and associations will probably play an active role in informing and reminding members of their CPNI rights and options. Thus, there is no reason to assume, as those in favor of a prior authorization rule contend, that enhanced service providers will inadvertently fail to protect their competitive interests under the existing rule.

99. While we do not adopt the prior authorization rule, concerns expressed in the record cause us to emphasize that we expect the BOCs and AT&T to take special care to protect the CPNI of customers, especially enhanced service providers, that request restricted treatment of their CPNI. We require carriers to either designate "network services only" personnel in their COGs or to take other steps to handle the network needs of all such customers. We require the BOCs and AT&T to amend their ONA plans by March 10, 1988, to describe the types of information that they will treat as CPNI. Moreover, when an enhanced service provider requests that access to its CPNI be restricted, in certain circumstances there may be an ambiguity over whether a particular item of CPNI should be attributed to the provider (and thus should be restricted) or to a customer of the provider. The BOCs and AT&T should address such potential ambiguities in their ONA plan amendments and describe the CPNI of the various types of enhanced service providers that they will restrict pursuant to requests for confidentiality from those providers.

2. *CPNI Clarifications*

a. *Positions of the Parties*

100. In its petition, NYCHA/CCTU asks that in the event that the prior authorization rule for BOC access to CPNI is not adopted, we "make it easy and convenient for users to control or limit RBOC access to their CPNI."[188] NYCHA/CCTU proposes three modifications that, it claims, will further this purpose.

101. First, NYCHA/CCTU asks us to require each BOC to provide with its CPNI notice to multiline business customers a short form letter that such customers may use to inform the BOC of their CPNI elections. API and MCI support this requirement.[189] NYNEX and Bell Atlantic oppose it as unnecessary.

102. Second, NYCHA/CCTU asks us to clarify that once a customer has restricted its CPNI, it need not respond to subsequent notices in order to retain this restriction. While API and MCI support this requirement, NYNEX opposes it. NYNEX states that such a requirement would force it "to match responses from customers in a given year with responses from the same customers in subsequent years in order to ascertain which non-responding customers in the subsequent year had affirmatively requested protection in a prior year and then contact the customer with a special request for permission to use CPNI."[190] As noted above, Bell Atlantic and Southwestern Bell state that they will adhere to this policy regardless of whether we mandate it in a rule.

103. Third, NYCHA/CCTU asks us to recognize that a customer may authorize release of some or all of its CPNI for a specific time and/or for specific purposes. API and MCI support this suggestion. In addition, Southwestern Bell states that it will adhere to it, regardless of whether it is mandated in a rule. NYNEX opposes this proposal and terms it "totally unworkable."[191]

b. *Discussion*

104. As noted above, we require both the BOCs and AT&T to take certain specific steps to ensure that their customers and competitors receive the protection of our CPNI rules.

(1) *Response Forms*

105. We agree with NYCHA/CCTU and other commenters that the BOCs and AT&T should be required to enclose a response form to the CPNI notice. Such a form will make it as easy as possible for customers to respond, and will also help ensure that they understand what action is necessary to restrict their CPNI. Moreover, this requirement is consistent with the CPNI rules specified in the *BOC Compliance Plan Order* [192] and will thus minimize customer confusion.

(2) *Length of Customer Restriction*

106. We also agree that a customer's election to restrict its CPNI should remain valid unless and until the customer specifically revokes that choice. This will ease the administrative burden and the risk of "authorization by oversight" for enhanced service providers and others who will seek confidential treatment of their CPNI. It is also consistent with the CPE rules adopted in the *BOC CPE Relief Reconsideration Order* and will thus minimize customer confusion. NYNEX's administrative burden arguments are not persuasive, particularly since several carriers have voluntarily agreed to honor such customer requests. [193] A carrier can comply with this rule simply by including in its CPNI notice a statement that customers' prior elections remain in effect unless specifically modified. Carriers would then have to process current responses only.

(3) *Partial and Temporary CPNI Restrictions*

107. In addition, we require AT&T and the BOCs to accommodate requests for partial or temporary restriction of CPNI. This will maximize customers' flexibility with respect to their CPNI. Contrary to NYNEX's assertions, such requests should not be difficult to process, since carriers can simply note the terms of the restriction on the customers' CPNI files.

(4) *Miscellaneous*

108. We also require AT&T and the BOCs to honor customer requests for restricted treatment of CPNI before the carriers send notice of CPNI rights. This requirement will mitigate some of the concerns of the parties about "inadvertent authorization by omission" and should not be burdensome for the carriers. It is also consistent with the CPNI rules adopted for CPE in the *BOC CPE Relief Reconsideration Order* and will thus minimize customer confusion. We note that several BOCs have indicated a willingness to provide restricted treatment. [194]

109. AT&T and the BOCs must amend their ONA plans on or before March 10, 1988, to reflect the foregoing modifications. Each of these carriers must include a copy of its proposed notification of CPNI rights and response form with its amendments. [195]

3. *Aggregate CPNI*

a. *Positions of the Parties*

110. Southwestern Bell asks us to relieve the BOCs of the requirement that they make aggregate CPNI available to unaffiliated enhanced service providers, or in the alternative, to subject AT&T to the same requirement. It claims we erred in concluding that this requirement would not be burdensome for the BOCs, in light of their aggregate CPNI obligations to independent CPE vendors. [196] It further states that there is no factual basis for our finding that the potential for misuse of such information by network service competitors is greater for AT&T than it is for the BOCs. [197]

111. IDCMA and Compuserve support Southwestern Bell's alternative request that AT&T be subject to the same aggregate CPNI requirements as the BOCs. IDCMA states that aggregated CPNI provided by AT&T would be just as useful as BOC-provided aggregate CPNI, and that there is no logical reason why AT&T should not be required to share such information to the extent that its enhanced service operations receive access to it. [198]

112. AT&T opposes the extension of aggregate CPNI obligations to it. It claims that it faces much more competition than the BOCs and, unlike them, controls no bottleneck facilities. [199] Therefore, it claims, it is appropriate for the BOCs to be subject to aggregate CPNI requirements, while it is not.

b. *Discussion*

113. We deny Southwestern Bell's petition. We have found that "aggregated CPNI may be valuable for targeting potential customers and for the marketing of enhanced services" and that it would not be unduly burdensome for the BOCs to provide such information to enhanced services vendors since they are already required to provide it to CPE vendors pursuant to the *BOC CPE Relief Order*. [200] Accordingly, we required the BOCs to make aggregated CPNI available, upon request, to unaffiliated enhanced service vendors, but we limited the requirement to aggregated information that a carrier provides its own enhanced services personnel. Southwestern Bell does not question our finding as to the value of aggregated CPNI, but claims that we erred in concluding that the aggregated CPNI requirement would not be burdensome.

114. We are unpersuaded by Southwestern Bell's argument. As noted above, the aggregated CPNI requirement applies only to aggregated information that a carrier provides its enhanced service personnel. Moreover, the BOCs will already have a mechanism in place to process aggregated CPNI requests by independent CPE vendors. Thus, the additional burden imposed on the BOCs by the aggregated CPNI requirement for enhanced service providers appears to be minimal.

115. Nor do we reverse our finding that the aggregated CPNI requirement should apply to the BOCs only. As we noted in the *Phase II Order*, the *Phase I Recon Order*, and the *Phase I Further Recon Order*, AT&T faces considerably more competition in the interexchange basic services market than do the BOCs in the local exchange markets. [201] Thus, if AT&T had to make aggregated CPNI available, there is a strong possibility that its network service competitors would obtain this information and use it in their basic service marketing efforts. The BOCs do not face the same potential competitive threat to their network service operations from the aggregated CPNI requirement.

C. *Network Disclosure Rules*

116. The *Phase II Order* required AT&T and the BOCs to disclose information about network changes or new network services that affect the interconnection of enhanced services with the network at two points in time. [202] First, a carrier must disclose such information at the "make/buy point - that is, when the carrier decides to make itself, or to procure from an unaffiliated entity, any product the design of which affects or relies on the network interface. We permitted AT&T and the BOCs to condition "make/buy" disclosure of technical network information on the signing of a nondisclosure aggreement and to provide the required network information within 30 days of the execution of such an agreement. Second, we required AT&T and the BOCs to release publicly all

technical information at least twelve months prior to the introduction of the new service or network change that affects enhanced service interconection with the network. However, if a carrier is able to introduce the service between six and twelve months after the make/buy point, public disclosure is permitted at the make/buy point, but no less than six months before the introduction of the service.

1. *Positions of the Parties*

117. Ameritech petitions to reduce the public disclosure period from twelve to six months prior to the introduction of the new or modified network service. Citing its petition for reconsideration of the *BOC CPE Relief Order* and its previous comments in this proceeding, Ameritech argues that the twelve-month rule could cause premature disclosure and misdirection of the marketplace, delays in the provision of services to the market, and reduced incentives to innovate. [203] Ameritech claims that the only companies that will not sign nondisclosure agreements in order to receive network information at the make/buy point are its network service competitors, and that it is unfair to reward them with information on Ameritech's technical initiatives when they have no reciprocal obligation. [204]

118. NYNEX and Southwestern Bell support Ameritech's petition. NYNEX asserts that the only reason an enhanced service provider might refuse to sign a nondisclosure agreement is to preserve its ability to share valuable network information with its affiliated network operations, and that our goal of protecting parties unwilling to sign nondisclosure agreements is misguided. [205] Enhanced service providers that also provide network services, it states, should devise internal means of keeping such information from their network services personnel so that they can sign nondisclosure agreements. [206] Southwestern Bell echoes the argument that entities that will not sign nondisclosure agreements are adequately served by a six-month public disclosure period and asserts that the twelve-month period may stifle innovation.[207]

119. Compuserve, IDCMA, and NATA oppose Ameritech's petition. They state that Ameritech raises no new arguments that would justify a modification of the public disclosure period. [208] They argue that the development time for new enhanced services is generally much longer than six months, and frequently exceeds twelve months. [209] They contend that the twelve-month period represents an appropriate balancing of the competing interests at stake, particularly since as little as six months' notice is permitted for services that can be introduced expeditiously. IDCMA also disputes Ameritech's contention that only enhanced service providers that wish to use network information in their network operations will be unwilling to sign nondisclosure agreements. IDCMA states that there are many valid reasons why an enhanced service provider may be unable or unwilling to sign such agreements. [210]

2. *Discussion*

120. We deny Ameritech's petition. We have considered its arguments in the *PhaseII Order*, as well as in the the *AT & T Structural Relief Reconsideration Order* [211] and the *BOC CPE Relief Reconsideraton Order*, [212] and we rejected this argument each time. Ameritech provides no new information and raises no new arguments that warrant a reversal of this policy. [213]

V. THE MULTIPLEXER EXCEPTION

A. *Introduction*

121. In the *Final Decision* in *Computer II*, we established the "multiplexer exception" to permit carriers, under certain limited circumstances, to place multiplexing equipment on customer premises as regulated equipment for providing basic services under tariff, rather than as unregulated CPE. [214] We clarified the multiplexer exception in the *LADT Order*, [215] by finding that the data subscriber line carrier (DSLC), a device located on customer premises that performs multiplexing as well as functions performed by network channel terminating equipment (NCTE) and modems, should be treated as unregulated CPE. The *Notice* in this proceeding requested comment on whether the multiplexer exception should be modified in light of the increasing use of digital facilities in carrier networks. [216] The *Phase II Order* concluded that the multiplexer exception should remain unchanged. [217] We rejected the arguments of some carriers that the exception should be expanded and the arguments of some CPE manufacturers that the exception should be eliminated.

B. *Positions of the Parties*

122. PacTel petitions us to reconsider our decision. It proposes standards that we would apply to evaluate whether the purpose of the exception -- to increase network efficiency -- is furthered by the placement of network multiplexers on customer premises.

123. PacTel contends that prior Commission and Bureau orders [218] improperly focus on the functionality of customer premise multiplexers, rather than their purpose, in interpreting the multiplexer exception. According to PacTel, it is infeasible to design a carrier-provided multiplexer that does not perform functions also performed by multiplexers provided as competitive CPE. For example, PacTel states that subscriber loop carriers (SLCs), which are carrier-owned multiplexers that currently fall within the multiplexer exception, perform CPE-like functions, such as analog-to-digital conversions, that we cited in excluding other types of multiplexing equipment from the scope of the exception. PacTel contends that, we have destroyed the exception by construing the multiplexer exception to apply only to multiplexers that do not have the functionality of multiplexers provided as unregulated CPE.

124. According to PacTel, because the present multiplexer exception is so limited, carriers have not found a way to deploy new digital loop multiplexer capabilities on customer premises. [219] Thus, PacTel claims, continuing the exception in its present form will preclude BOC development or use of any network multiplexing functions on customer premises. PacTel argues that permitting carrier provision of such functions under regulation would increase loop connectivity and minimize local exchange network non-traffic- sensitive costs.

125. PacTel says that we should apply an exception based on its underlying purpose of increasing network efficiency. [220] Thus, according to PacTel, our rule should be to examine whether the deployment of a multiplexer under the exception increases the use or efficiency of the loop plant, and whether the multiplexer provides a customer with two or more channels or provides two or more customers with individual communications channels.

126. Verilink, Southwestern Bell, and AT&T support PacTel's petition in their responses. Verilink states that multiplexing technology often requires the BOCs to place multiplexers on customer premises, and argues that interpretations of the present multiplexer exception unduly limits the type of equipment that carriers are permitted to provide on customer premises. [221] According to Verilink, many efficiencies that the exception was intended to promote require additional functionality that the carriers are not permitted to provide. This discourages BOCs from introducing multi- channel services that require functions such as analog-to-digital conversion and use of an RS-232 interface.

127. Verilink contends that the exception as presently interpreted requires BOCs to provide as CPE the equipment that performs multiplexing and other functions, which imposes two types of inefficiency on BOCs attempting to provide multi-channel services. First, according to Verilink, the twelve- month advance notice requirement of the network disclosure rule that applies to AT&T and BOC provision of CPE [222] is onerous because it hinders evolution toward a better interface based upon experience with new and innovative services. [223] Second, Verilink claims generally that our CPE policies in this area increase the risk of subscriber dislocation and confusion in installing multiplexers on customer premises because the subscribers lack the necessary training and instruction, particularly during the early phases of a new offering. [224]

128. Southwestern Bell also supports the petition, stating generally that we have failed to recognize the "inevitable detrimental effects" of constraining BOC provision of multiplexing equipment on customer premises. [225] These constraints, Southwestern Bell argues, could seriously threaten continued advancement toward desirable new technologies, particularly the experimental technologies needed prior to standardization. AT&T, in a footnote to its response, states that, to the extent that the existing rule may prevent carriers from delivering their tariffed services in the most efficient manner using the latest multiplexing technology, technological evolution of the basic network, and particularly deployment of digital technology in the local loop, could be retarded. [226]

129. IDCMA, NATA, and IBM oppose the PacTel petition. IDCMA and NATA contend generally that PacTel raises no new arguments and presents no new facts in its petition, and therefore is abusing our processes by debating matters on which we have already ruled. IDCMA further argues that if the petition is granted, the flexibility that PacTel believes possible would be attained only at the expense of competition and consumers. According to IDCMA, our present policy of encouraging the competitive provision of CPE, including multiplexing equipment, benefits consumers by promoting low prices, varied product selection, and rapid innovation. [227] IDCMA states that our competitive CPE policies have avoided unnecessary regulation of markets that function well on an unregulated basis, and notes that under our present regulatory scheme, carriers as well as CPE vendors are permitted to provide unregulated CPE, including multiplexing equipment, on an unseparated basis. IDCMA argues that PacTel has failed to demonstrate why expansion of the multiplexer exception is necessary, since the *BOC CPE Relief Order* permits BOCs to offer both "systems solutions" to specific problems and "one-stop shopping.

130. IDCMA further claims that PacTel's proposal should not be adopted because it would permit carriers to move virtually all CPE functions back into the regulated domain and essentially would eliminate the competitive supply of such equipment. IDCMA argues that the present rule does not hinder either network innovation or loop evolution, and that independent CPE vendors and their customers have more incentive than the carriers to develop multiplexing equipment that improves network efficiency. Moreover, IDCMA claims that the competitive CPE marketplace can respond with the necessary equipment whenever new loop technologies require, citing as examples BellSouth's LADT service, AT&T's M-44 and M-24 tariffed offerings, and New York Telephone's DOV service. [228]

131. While IDCMA claims that it agrees with PacTel's assertion that there is no technological basis for distinguishing between carrier-supplied and customer-provided multiplexers, it argues that this fact undermines, rather than supports, PacTel's proposed expansion of the multiplexer exception. IDCMA states that the multiplexer issue is one of policy, rather than technology, and that classification as CPE achieves the best policy result by making the equipment subject to competition. [229]

132. NATA asserts that PacTel fails to explain why it cannot provide multiplexer equipment under either the present exception or the revised rules contained in the *BOC CPE Relief Order*. [230] Similarly, IBM notes that carriers have sufficient flexibility to furnish additional transmission channels to customers at reasonable cost because they may offer customer premises multiplexers as CPE on a structurally integrated, but unregulated, basis pursuant to the terms of the *BOC CPE Relief Order*. The only "flexibility" denied carriers, IBM states, is the ability to bundle devices with tariffed transmission services, or to cross-subsidize premises equipment at the expense of regulated ratepayers.

133. IBM argues that the real efficiencies attributable to the use of multiplexers can be realized equally well when multiplexers are classified as CPE as when they are classified as network equipment. [231] IBM further contends that Pacific's request is for a vague formulation of the exception that would swallow the general rule. According to IBM, since multiplexing functions can be coupled with additional functions and features that occur in unregulated CPE, a rule that permits carriers to provide all loop multiplexers under regulation, regardless of the additional CPE functions incorporated into the equipment, would eliminate competition in the supply of multiplexing equipment and deprive users of the benefits of competition. [232]

134. In its reply, PacTel alleges that the current multiplexer policy conflicts with obligations to advance the development of new technologies and services imposed upon us by Sections 7 and 218 of the Communications Act, [233] stating that if the present policy is not changed, the benefits of the information age will not be realized and local rates will not remain affordable. [234] USTA supports PacTel's petition in its reply, stating that the multiplexer exception either should be modified or be applied in a manner that ensures attainment of the efficiencies envisioned by this Commission. [235] As presently interpreted and applied, USTA argues, the exception fails to promote efficiency because it unreasonably restricts the functions that can be included with a carrier-provided multiplexer on customer premises. USTA urges that loop

efficiency be encouraged by carrier provision of multiplexing, and argues that the physical location of equipment should not determine its regulatory status.

135. Bell Atlantic argues in its reply that under the existing multiplexer exception, carriers have been permitted to provide network SLCs that perform analog-to-digital, loopback testing, and signal repeating that they have been forbidden to provide in other types of customer premises multiplexers. In supporting the expansion of the exception, Bell Atlantic states that by using such approved multiplexers, it has saved tens of millions of dollars in additional loop plant. Bell Atlantic also argues that carriers, rather than customers, have the incentive to use multiplexing to make more efficient use of the network because the customers are charged the same rate for the ordered service, whether it is provided by costly additional loops or by multiplexing. [236]

136. The Verilink reply says the *BOC CPE Relief Order* imposes various restrictions that hinder the BOCs' ability to offer new and innovative network technologies. [237] According to Verilink, the "slow pace" of network innovation, notwithstanding the LADT, DOV, and M-44 and M-24 services cited by IDCMA, supports PacTel's proposal for a more flexible multiplexer exception. Verilink also claims that the PacTel proposal, which is directed at residential and small business customers, will have no material adverse effect on the existing competitive market for CPE multiplexers among large businesses that IDCMA members serve. Verilink argues that the increased availibility of multiple channels that would stem from adoption of PacTel's proposal could well expand the market demand for CPE and enhanced services. [238]

137. IDCMA replies that only Verilink devoted "more than a few lines" to supporting the petition, and that Verilink's arguments are misleading and unsupported, demonstrating the lack of new or valid arguments against the present rule. IDCMA contends that Verilink's comments attack not only the present multiplexer exception, but our general pro-competitive CPE policies as well. IDCMA also notes that Gregg Carse, the creator of Project Victoria, has been quoted in the press as stating that the multiplexer exception "improves the Victoria technology's viability" by creating the regulatory environment for decreases in per-line costs. [239] In a subsequent *ex parte* filing, IDCMA notes that the *Phase II Order* established standards for treating NCTE functions other than loopback testing as network functions rather than as CPE functions. [240] IDCMA suggests that proper application of these standards to multiplexing would provide carriers with the flexibility they desire while permitting us to eliminate the multiplexer exception.

C. *Discussion*

138. We decline to adopt PacTel's proposal because it is inconsistent with the role that the multiplexer exception has played in our general policies, which are designed to benefit all consumers through development of the competitive CPE market. In this Order we further address parties' concerns over the applicability of the exception and its relationship with our treatment of other functions that can be offered through unregulated NCTE or, in some circumstances, under regulation. Thus, we retain the regulated status of equipment, such as the SLCs mentioned in the *LADT Order* [241] and the DS-4 channel banks cited by Bell Atlantic, that carriers have been providing on customer premises, with our acquiesence, under the multiplexer exception. We will permit carriers to continue to provide under regulation updated or improved versions of such equipment in the same manner, and for the same purpose, as existing equipment supplied under the exception. [242] If a carrier desires to provide, on a regulated basis and on customer premises, other types of equipment that perform non-loopback NCTE functions, such as multiplexing, we will entertain waiver requests for such offerings on a case- by-case basis. [243] As our standard for granting such requests, we adopt the NCTE waiver standard of the *Phase II Order*. [244] Thus, the carrier must demonstrate that its proposed offering, through regulated equipment located on customer premises, of non-loopback NCTE functions like multiplexing will serve the public interest by increasing the efficiency, or making technically possible the delivery, of a particular basic service, and that provision of such functions through unregulated CPE will not permit attainment of comparable efficiencies or service offerings.

139. This standard focuses on the proper treatment of multiplexing performed on customer premises under our pro-efficiency policies. We agree with PacTel that network efficiency is an important goal and has been one of the focuses of this proceeding. We do not believe, however, that expansion of the multiplexer exception is an effective way to attain either that goal or our broader public interest goals. Indeed, we believe that continued promotion of a competitive market for CPE and the efficiencies that it brings will better serve the public interest than expansion of the multiplexer exception, as PacTel requests. We recognize the value of the exception, as noted by Bell Atlantic in its reply, [245] and thus decline to eliminate it, as some parties have proposed. By continuing the regulated treatment of equipment already provided pursuant to the exception and to upgraded versions of such equipment, carriers and the public will continue to realize the known benefits of the exception. However, by expressly using the NCTE waiver standard for new multiplexing equipment located on customer premises, we require carriers to justify precisely why the regulated provision of such functions in a proposed offering is more in the public interest than their provision through unregulated, competitive CPE. Recognizing, as we have in the *Phase II Order*, [246] that multiplexing is a function provided in unregulated NCTE, adoption of these standards also clarifies our treatment of multiplexing by conforming it with our treatment of other "NCTE functions." The standard we adopt today will provide carriers and the public with more structured guidance than was available previously on the scope and goals of our treatment of multiplexing performed on the customer's premises. [247] We provide additional guidance by addressing specific concerns of the parties below.

140. PacTel argues that the utility of the existing exception is impaired to the point that it no longer fulfills its intended role of increasing network efficiency, because it is not broad enough to permit carriers to offer functions in addition to multiplexing in equipment placed on customer premises. These additional functions, PacTel argues, are necessary in order to realize the intended efficiencies in local loop plant through multiplexing. PacTel overstates its case, since, as noted above, carriers routinely provide SLCs and other forms of multiplexing equipment on a regulated basis under this exception. By carefully delimiting the conditions under which multiplexing can be performed on customer premises on a regulated basis, we seek to prevent carriers from unduly encroaching on the

flourishing competitive market for CPE by labeling as regulated multiplexers equipment that can be provided competitively, while still permitting carriers to provide basic services efficiently.

141. We further note that the *BOC CPE Relief Order* will enable the BOCs to provide unregulated CPE on an integrated basis with their network operations. While, as PacTel notes, the permanent relief from structural separation requirements of the *BOC CPE Relief Order* for carrier CPE operations has not yet become effective, implementation is imminent and such relief will permit integrated offerings of network services and CPE, including integrated marketing, installation and maintenance, and should alleviate many of the difficulties that PacTel describes.

142. As PacTel and others state, the network disclosure rules of the *BOC CPE Relief Order* and Part 68 of our Rules apply to equipment provided as CPE. Those rules are necessary to prevent discrimination by carriers against CPE competitors through their control of network interfaces. By permitting CPE competition to develop fully, these safeguards promote innovation and result in a greater variety of features for the consumer at lower prices than would be the case with monopoly supply of CPE. Further, we are not convinced that the network interface standards for competitively- supplied CPE would be so unstable that specification changes would be required on short notice, in a manner incompatible with our disclosure rules. However, if such a case were to occur, we would be able to determine whether special accommodations should be made based on the facts of that particular case. [248] Therefore, given the advantages of competitive supply of CPE in fostering delivery of new and better services at less cost, we are not convinced that this hypothetical concern is reason to revamp our entire regulatory scheme governing the supply of multiplexing equipment.

143. We find little support for the argument that provision of multiplexing equipment as CPE to provide customers with additional channels will lead to customer dissatisfaction, dislocation, and confusion. Consumers presently purchase a wide variety of CPE that connects to the network, including NCTE. If consumers are dissatisfied with equipment purchased from non-carrier sources, we would expect the market to be robust for competitive CPE provided by the BOCs pursuant to the *BOC CPE Relief Order*.

144. While PacTel invokes Sections 7 and 218 of the Communications Act in arguing that this Commission should approve broader regulated provision of multiplexing equipment, we believe that our approach in this area, as well as our general *Computer III* policies, will encourage the use of new technology by carriers, which no longer are subject to structural separation, and their competitors. Our policies continue to encourage the deployment of new technology throughout the network. Our experience with the provision of CPE generally since *Computer II* is that new equipment and technology are more likely to become widely available with a range of features and prices desired by consumers when provided as unregulated CPE than when provided as regulated equipment. No argument presented in the reconsideration pleadings demonstrates that, as a general matter, providing new equipment on the customer's premises as regulated network equipment is more likely to foster its utilization and growth. [249]

145. In the *Phase II Order*, we recognized that technology and the associated equipment markets are in a state of flux. In addition to retaining the multiplexer exception, we announced that we would entertain, on a case- by-case basis, carrier waiver requests to offer basic services that include the provision of NCTE functions through regulated equipment located on customer premises (other than remote loopback testing provided on the network side of the demarcation point, for which we provided a general authorization). We believe that the public interest is best served by provision of CPE on an unregulated basis, but we will consider on its merits any proposed offering at variance with the rule pursuant to the standard discussed above. This continued flexibility, rather than abandonment of our commitment to the competitive supply of CPE, will provide the best foundation for evolution of the network to provide new services.

VI. ORDERING CLAUSES

146. IT IS HEREBY ORDERED, that the Motion for Leave to Exceed Page Limitation filed by BellSouth, and the Motions to Strike of Telenet, Tymnet, and Compuserve, ARE DISMISSED.

147. IT IS FURTHER ORDERED, that pursuant to Sections 1, 4(i), 4(j), 201, 202, 205, 218, and 405 of the Communnications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and (j), 201, 202, 205, 218, and 405, and 5 U.S.C. § 553, the Petitions for Reconsideration and Clarification filed in this proceeding ARE DENIED, except as provided herein.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

APPENDIX A

Parties filing Petitions:
American Telephone and Telegraph Company (AT&T)
Ameritech Operating Companies (Ameritech)
Bell Atlantic Telephone Companies (Bell Atlantic)
BellSouth Corporation, South Central Bell Telephone Company, and Southern Bell Telephone and Telegraph Company (BellSouth)
Florida Public Service Commission (Florida)
New York Clearing House Association and the Committee of Corporate Telecommunications Users (NYCHA/CCTU)
Pacific Bell, Nevada Bell, PacTel Communications Companies, and Pacific Telesis Group (PacTel)
Siemens Communications Systems, Inc. (Siemens)
Southwestern Bell Telephone Company (Southwestern Bell)

Parties filing Responses:
ADAPSO

American Newspaper Publishers Association (ANPA)
American Petroleum Institute (API)
AT&T
Ameritech
Association of Telemessaging Services International (ATSI)
Bell Atlantic
BellSouth
Compuserve Incorporated (Compuserve)
Cylix Communications Coporation (Cylix)
Equatorial Communication Services (Equatorial)
General Electric Information Services (GEIS)
Independent Data Communications Manufactures Associations, Inc. (IDCMA)
International Business Machines Corporation (IBM)
MCI Telecommunications Corporation (MCI)
North American Telecommunications Association (NATA)
NYNEX Telephone Companies (NYNEX)
PacTel
ProtocomDevices, Inc. (Protocom)
Southwestern Bell
Telenet Communications Corporation (Telenet)
Tymnet-McDonnell Douglas Network Systems Company (Tymnet)
United States Telephone Association (USTA)
US West, Inc. (US West)
Verilink Corporation (Verilink)

Parties filing Replies:
AT&T
Ameritech
Bell Atlantic
BellSouth
IDCMA
NYCHA/CCTU
PacTel
Southwestern Bell
Telenet
Paging Division of Telocator Network of America (Telocator)
Tymnet
US West
Verilink

FOOTNOTES

[1] Amendment of Sections 64.702 of the Commission's Rules and Regulations, *Report and Order*, 104 FCC 2d 958 (1986), *modified on reconsideration*, 2 FCC Rcd 3035 (1987) (*Phase I Recon Order), further reconsideration*, FCC 88-9 (released Feb. 18, 1988) (*Phase I Further Recon Order).*

[2] Second Computer Inquiry, *Final Decision*, 77 FCC 2d 384 (*Final Decision), modified on reconsideration*, 84 FCC 2d 50 (1980) (*Reconsideration Order), further modified on reconsideration*, 88 FCC 2d 512 (1981) (*Further Reconsideration Order), aff'd sub nom. Computer and Communications Indus. Assn'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982) (*CCIA v. FCC), cert. denied*, 461 U.S. 938 (1983), *aff'd on second further reconsideration*, FCC No. 84-190 (released May 4, 1984).

[3] Amendment of Sections 64.702 of the Commission's Rules and Regulations, *Report and Order*, 2 FCC Rcd 3072 (1987).

[4] Hereinafter, we refer to a petition for reconsideration as a "petition, a pleading filed in response or opposition to a petition as a "response," and a pleading filed in reply to a response as a "reply." Parties filing petitions, responses, and replies are listed in Appendix A. We use the abbreviations listed in that Appendix in this Order. On August 21, 1987, BellSouth filed a Motion for Leave to Exceed Page Limitation for its reply. In this motion, BellSouth proposed to attach a study from a consulting firm to its reply. Telenet, Tymnet, and Compuserve filed motions to strike, which BellSouth contested. Subsequently, BellSouth properly introduced the study into the record pursuant to our *ex parte* rules. *See* Letter from Thomas Hamby, BellSouth, to William J. Tricarico (filed Dec. 1, 1987). Because we accept BellSouth's filing of the study at issue under our *ex parte* rules, we dismiss the motions of BellSouth, Telenet, Tymnet, and Compuserve as moot.

[5] No party petitioned for reconsideration of our *Phase II Order* decisions relating to independent telephone companies and international communications.

[6] *Phase II Order*, 2 FCC Rcd at 3078, para. 43.

[7] *Id.* at 3080, para. 61.

[8] *Id.* at 3081, para. 63.

[9] *Id.* at 3080-3081, para. 62.

[10] Petition for Waiver of Section 64.702 of the Commission's Rules, *Memorandum Opinion and Order*, 100 FCC 2d 1057 (1985).

[11] *Phase II Order*, 2 FCC Rcd at 3080-3081, para. 62.

[12] *Id.* at 3080-3081, para. 62. The NURE originated in the *Asynchronous/X.25 Waiver Order. See* 100 FCC 2d at 1096-1097, paras. 98-100.

[13] *Phase II Order*, 2 FCC Rcd at 3095, paras. 154-55.

[14] *Id.* at 3097, para. 174.

[15] No petitioner asked us to require that AT&T's use of CPNI be restricted absent prior authorization from its customers.

[16] *Phase II Order*, 2 FCC Rcd at 3105-3106, paras. 231-237.

[17] Furnishing of Customer Premises Equipment by the Bell Operating Telephone Companies and the Independent Telephone Companies, *Report and Order*, 2 FCC Rcd 143 (1987), *modified on reconsideration*, 3 FCC Rcd 22 (1988).

[18] These alternatives were first described in the *Supplemental Notice* in this proceeding. Amendment of Sections 64-702 of the Commission's Rules and Regulations (Third Computer Inquiry), Phase II, *Supplemental Notice of Proposed Rule Making*, CC Docket 85-229, FCC 86-253 (released June 16, 1986).

[19] Moreover, we imposed CEI obligations on the BOCs that differ from those for AT&T.

[20] We stated that "[e]ven if we were to forebear from regulation at the federal level under the principles of *Competitive Carrier* [citation omitted], a VAN could be subject to state regulation, and our preemption authority in this area is not clear." *Phase II Order*, 2 FCC Rcd at 3078, para. 46.

[21] The following petitioners urge us to adopt Alternative A: Bell Atlantic; BellSouth; Florida; PacTel; Siemens; and Southwestern Bell. In their responses, Protocom, USTA, and US West concur. ADAPSO, Compuserve, GEIS, IBM, Telenet, and Tymnet oppose adoption of Alternative A.

[22] *See , e. g.*, Bell Atlantic Petition at 1-7; BellSouth Petition at 17-19; Florida Petition at 2; Pactel Petition at 2-11; Siemens Petition at 4-12; Southwestern Bell Petition at 4-5, 18; USTA Response at 3-9; US West Response at 3-8.

[23] Under the "contamination theory" developed in the course of the *Computer II* regulatory regime, VANs that offer enhanced protocol processing services in conjunction with basic transmission services are treated as unregulated enhanced service providers. The enhanced component of their offerings "contaminates" the basic component, and the entire offering is therefore considered to be enhanced.

[24] *See , e. g.*, Bell Atlantic Petition at 8; BellSouth Petition at 7-11; Florida Petition at 3; Pactel Petition at 6; Southwestern Bell Petition at 9.

[25] *Nat'l Ass'n of Regulatory Utility Commissioners v. FCC*, 525 F.2d 630 (D.C. Cir. 1975), *cert. denied*, 425 U.S. 992 (1976).

[26] *See* BellSouth Petition at 6-7.

[27] *See supra* note 2.

[28] *Nat'l Ass'n of Regulatory Utility Commissioners v. FCC*, 533 F.2d 601 (D.C. Cir. 1976).

[29] *See* 2 FCC Rcd at 3080-81, paras. 61-62.

[30] *See , e.g.*, BellSouth Petition at 13-17 and 19-23.

[31] BellSouth states that the multiplexing and average pricing requirements historically applied only to the specific data-over-voice (DOV) access offering addressed in the *New York Telephone Order*, and should not be extrapolated to the generalized CEI requirements for protocol processing. New York Telephone Petition for Waiver of Section 64.702 of the Commission's Rules (Computer II), *Memorandum Opinion and Order*, AAD 5-1242, Mimeo 6782, (released Sept. 11, 1986).

[32] *See , e.g.*, Pactel Petition at 5.

[33] *See* Southwestern Bell Petition at 5-6; Siemens Petition at 9.

[34] *See* ADAPSO Response at 2-5; Compuserve Response at 3; GEIS Response at 4; IBM Response at 4; Telenet Reply at 2-3; Tymnet Response at 2-11; Tymnet Reply at 2.

[35] *See, e.g.*, ADAPSO Response at 7-12; IBM Response at 5; Telenet Response at 3-10.

[36] *See, e.g.*, ADAPSO Response at 12-16; Telenet Response at 10-14; Tymnet Response at 12-16.

[37] *See* ADAPSO Response at 17-21; Compuserve Response at 4-8; IBM Response at 4-7; Telenet Response at 14-17; Tymnet Response at 9-11. IBM claims further that the requirement that BOCs procure underlying interoffice facilities at tariffed rates is a cornerstone of *Computer II* and the *Asynchronous / X. 25 Waiver Order*. *See* IBM Response at 4, 8. Opponents also contend that criticisms of the *Joint Cost Order* should be addressed on reconsideration in that proceeding.

[38] Ameritech Petition at 3 n.5, *citing Supplemental Notice* at para. 23.

[39] Ameritech Petition at 3 n.5.

[40] Ameritech Reply at 4.

[41] BellSouth Petition at 4-5, *citing MCI Telecommunications Corp. v. FCC*, 765 F.2d 1186 (D.C. Cir. 1985).

[42] Bell Atlantic Petition at 5-6. Bell Atlantic claims that protocol processing falls within the scope of Section 3(a) of the Communications Act, 47 USC § 153(a), and thus should be subject to regulation. *Id.*; *see also* Siemens Petition at 6.

[43] Florida Petition at 2.

[44] *Id.* at 4.

[45] *See* ADAPSO Response at 7-10.

[46] *Id.* at 11-12, n.20.

[47] *Id.* at 12 n.21. ADAPSO also argues that protocol processing need not be subject to tariff regulation even if it falls within Section 3(a) of the Act. ADAPSO notes that we rejected similar arguments for CPE in *Computer II*, and the *Computer II* decision was expressly upheld on appeal. ADAPSO Response at 10-11 and nn.17-19, *citing CCIA v. FCC*, 693 F.2d 198, 209-212 (D.C. Cir. 1982).

[48] In paras. 29-49, *infra*, we address specific CEI/ONA issues related to the NURE requirement, short loop pricing, and the multiplexing of VAN loops at an end office.

[49] For example, arguments related to the integral nature of protocol processing, the utility of the information content test, and the effects of CEI/ONA on the introduction of new technology are addressed in the *Phase II Order*, 2 FCC Rcd at 3075-3076, paras. 23-30; at 3079, paras. 50-54; at 3080, paras. 57-58. Effects of CEI/ONA on the implementation of ISDN are addressed in the *Phase I Order*, 104 FCC 2d at 1057-1059, paras. 194-200. "Reregulation issues are addressed in the *Phase II Order*, 2 FCC Rcd at 3077, paras. 38-40; at 3078, para. 46; at 3080, para. 57.

[50] PacTel Petition at 5.

[51] *See Phase II Order*, 2 FCC Rcd at 3080, paras. 59-63.

[52] Thus, we are not persuaded by arguments that certain alleged problems with our CEI/ONA safeguards as applied to protocol processing demonstrate that we should abandon Alternative C and adopt Alternative A. As discussed *infra*, to the extent the BOCs have identified legitimate problems with the *Computer III* safeguards as applied to protocol processing, we can address those problems by refining the safeguards rather than reregulating protocol processing.

[53] Southwestern Bell Petition at 6.

[54] *Final Decision*, 77 FCC 2d at 430-432, paras. 119-126; 434-435, paras. 129-132.

[55] *See CCIA v. FCC*, 693 F.2d at 207-211. In *CCIA*, the court affirmed our alternative conclusions that (a) all enhanced services are not common-carrier communications services, and (b) even if some enhanced services might be common carrier communications services within the ambit of Title II, we are not required to identify such services and subject them to Title II regulation because the difficulties of performing such identification would outweigh its benefits. *Id.* at 209-211.

[56] Thus, we are not convinced by arguments, such as those of Ameritech, Bell Atlantic, and Siemens, that protocol processing must be regulated because it is a communications service. The Act clearly contemplated that there are services that are subject to Title I of the Act that are not common carrier services subject to the tariffing provisions of Title II of the Act. *See Phase I Recon Order*, 2 FCC Rcd at 3060, para. 178.

[57] *Supplemental Notice* at para. 22.

[58] The modern telecommunications switch is a sophisticated computer that can perform a myriad of services that we have classified as enhanced, including data processing and information storage and retrieval. The fact that some of these services could be offered on an efficient basis if technically integrated with basic services, does not render them basic services themselves. Indeed, one of the principal goals of this proceeding is to allow dominant carriers to realize the efficiencies of integrating basic and enhanced services in order to promote the greater availability of enhanced services to the American public.

[59] *See supra* note 54.

[60] *See Phase I Recon Order*, 2 FCC Rcd at 3057-3063, paras. 173-190.

[61] Ameritech Petition at 16 (emphasis in original).

[62] *Id.* at 15.

[63] Southwestern Bell Petition at 24.

[64] BellSouth Petition at 15. BellSouth does not specifically petition for clarification of our CEI/ONA requirements relating to multiplexers, but raises these issues to argue that Alternative A should be adopted.

[65] *See* ADAPSO Response at 21; IBM Response at 13; Telenet Response at 15; Tymnet Response at 14-18; US West Response at 10-11.

[66] *Phase II Order*, 2 FCC Rcd. at 3080, para. 62.

[67] *See* IBM Response at 13.

[68] *Phase I Order*, 104 FCC 2d at 1042, para 164.

[69] In some cases, particularly when the packet assembler-disassembler (PAD) and the packet switch are integrated, the demands for protocol conversion service, such as asynchronous/X.25, may require so much of the total available packet switching computer processing time that the throughput for those end users who do not require protocol conversion is affected. The NURE was intended to mitigate this impact upon basic-service-only customers by requiring users of protocol processing to assume a greater fraction of the basic packet service revenue requirement.

[70] *See* Ameritech Petition at 17-20.

[71] Ameritech Petition at 17.

[72] *Id.* at 19.

[73] *Id.*

[74] Southwestern Bell Response at 7.

[75] Southwestern Bell states that one solution would be based upon implementing a network administration function, load leveling, that is analogous to that used in the circuit switched voice network. Another solution, it asserts, would be traffic engineering, which would adjust network parameters to handle peak traffic demands.

[76] As with its argument against multiplexing as a CEI requirement, *see supra* note 64, BellSouth's argument against the NURE is not so much that it should be abolished as part of CEI, but rather that it introduces inefficiencies into the network. BellSouth, therefore, supports treatment of protocol processing as a basic service and adoption of Alternative A. *See* BellSouth Petition at 14.

[77] NURE is a relatively small, but not necessarily insignificant, fraction of the basic packet switching charge. The amounts stated by the BOCs in their compliance plans filed in response to the *Asynchronous / X. 25 Waiver Order* vary from 0% to 10%.

[78] BellSouth and PacTel also oppose the CEI price averaging requirement, but address it in a different context. They argue that price averaging is but one of several onerous CEI conditions that, as an ensemble, are grounds for the adoption of Alternative A. *See* BellSouth Petition at 22; PacTel Petition at 4.

[79] Ameritech Petition at 5-6.

[80] *See id.* at 8.

[81] *See id.* at 10-15.

[82] ADAPSO Response at 21.

[83] *See* Compuserve Response at 12.

[84] IBM Response at 14.

[85] *Id.* at 15.

[86] US West Response at 10.

[87] We also reject Ameritech's argument that since most basic packet switching customers also purchase protocol processing, our price averaging requirements, in practice, will burden basic service ratepayers. First, to the extent that customers are buying the BOCs' unregulated protocol processing capabilities, they are the enhanced service customers of the BOCs. While the charges they pay to the BOCs reflect the tariff rates for the underlying packet switching, such customers are analogous to customers of enhanced service, such as information retrieval services, whose charges also can reflect basic communications charges. Second, the BOCs will have some basic packet switching customers who do not also purchase protocol conversion. These customers will not pay rates reflecting price averaging related to protocol conversion, since they do not use it.

[88] Such integration does not change the unregulated status of protocol processing and other enhanced services that could be integrated further with basic services. A wide range of enhanced services technically could be integrated into a communications switch. A rule that treated any service that could be so integrated as a basic service would potentially create a large loophole in our deregulatory, procompetitive policies for enhanced services. *See supra* note 58.

[89] *See* Southwestern Bell Petition at 21-24.

[90] AT&T Response at 1-5.

[91] *Phase II Order*, 2 FCC Rcd at 3082, para. 71.

[92] *See* Southwestern Bell Petition at 20.

[93] ADAPSO Response at 24.

[94] *Id.* at n.43.

[95] Petitions for Waiver (X.25/X.75), *Memorandum Opinion and Order*, FCC No. 84-561 (released Nov. 28, 1984).

[96] *See* Tymnet Response at 11-14.

[97] *Id.* at 13.

[98] While Southwestern Bell describes some potential ambiguities in the net conversion test, we do not address such ambiguities on the basis of the extremely limited record on this matter in this proceeding.

[99] Furnishing of Customer Premises Equipment and Enhanced Services by American Telephone & Telegraph Company, *Memorandum Opinion and Order on Reconsideration*, CC Docket No. 85-26, FCC No. 86-341 (released Aug. 7, 1986).

[100] AT&T Petition at 2-6.

[101] *Id.* at 8.

[102] *Id.*

[103] *Id.* at 10-11. AT&T states, for example, that bit error rates are only relevant to digital services and delay distortion is only relevant to data transmission. AT&T Reply at 6-7.

[104] AT&T Petition at 11-12.

[105] *Id.* at 12; AT&T Reply at 7.

[106] AT&T Petition at 13.

[107] *Id.* at 13-15. This argument, which also relates to the installation and maintenance reports, is the basis for AT&T's request for a modification of the required reporting format. *See infra* at 78.

[108] *See generally* Ameritech Response at 3-7; BellSouth Response at 9-14; Bell Atlantic Response at 4-5.

[109] *See generally* ANPA Response at 7-8; IDCMA Response at 16-21; Compuserve Response at 19-21.

[110] Compuserve Response at 20.

[111] IDCMA Response at 16-17.

[112] *Id.* at 18.

[113] *Id.* at 18-19. IDCMA further states that any deficiences in the quality of circuits provided by the BOCs would be revealed in the BOCs' own quality reports.

[114] *Id.* at 19-20.

[115] *Id.* at 20-21.

[116] The procedures described in the amendment should include the training that AT&T provides to its employees to ensure that they comply with our nondiscrimination rules.

[117] Sanctions for falsifying such an affidavit could include forfeitures under Sections 219(b), 220(e), 501, and 502 of the Communication Act, 47 U.S.C. §§ 219(b), 220(e), 501, and 502, and criminal penalties under the False Statements Statute, 18 U.S.C. § 1001.

[118] If the procedures we specify in this order do not ensure AT&T's inability to discriminate, we direct the Bureau to modify the procedures or to deny relief from the quality reporting requirement.

[119] *AT & T Structural Relief Reconsideration Order*, *supra* note 99, at para. 40.

[120] *Id.* at n. 61.

[121] We recognize, however, that some personnel in AT&T likely will know or could discover that certain of its customers are enhanced service providers. Many of these firms provide service on a national or regional basis and are major customers of AT&T. Furthermore, as AT&T expands its enhanced services operations, it will be competing directly with some of these firms, and can be expected to know who its competitors are. Thus, while the AT&T personnel who receive, process, and fill service orders may not know (or if they know, not care) whether a particular customer is an enhanced service provider, we do not assume, in evaluating the costs and benefits of quality reporting, that such knowledge or interest is not present at all in the organization. While, for the reasons discussed in the text, this factor does not convince us that quality reporting is necessary, we will consider it in evaluating AT&T's amendment of its ONA plan discussed above.

[122] We acknowledge, of course, that AT&T's procedures may not entirely preclude the possibility of isolated cases of human intervention for purposes of discrimination, but based on the record before us, we find this possibility to be speculative, particularly based on AT&T's statement that it does not even test its circuits and equipment beyond determining that they meet tariffed parameters. Indeed, as discussed below, we are concerned that quality reporting could facilitate such instances of *ad hoc* discrimination by AT&T personnel, since it would require AT&T to gather the very information with which its personnel could discriminate. We emphasize that our complaint process is available to parties who believe they have been subject to such discrimination.

[123] *AT&T Structural Relief Reconsideration Order* at para. 40.

[124] While reports might reveal systematic discrimination, they might not reveal isolated cases of discrimination. Thus, they would not obviate the increased risk of selective discrimination that the process of compiling them creates.

[125] Although, as we have discussed, some personnel in AT&T would be able to identify particular customers as enhanced service providers, *see supra* note 121, AT&T insists that such information is not noted or otherwise taken into account, explicitly or implicitly, in the installation and maintenance process. We expect AT&T to document this representation in its ONA amendment.

[126] We also note that throughout the *Computer III* proceeding, we have indicated our desire to "achieve some measure of consistency in the rules that will govern the participation of AT&T and the BOCs in all nonregulated communications activities." *See, e.g., Phase I Order*, 104 FCC 2d at 1069, n. 259. We noted that "[d]ifferent rules for each type of nonregulated activity and for each individual carrier would potentially impose the same sorts of inefficiencies and confusions that we are attempting to eliminate in this proceeding." *Id.* Eliminating the quality reporting requirement for AT&T's provision of enhanced services would further this goal of consistency between AT&T's CPE and enhanced services obligations.

[127] USTA does not take a position on AT&T's petition, but argues that AT&T should be subject to no less onerous discrimination standards than the BOCs. USTA Response at 11.

[128] *See* BellSouth Response at 9-14; Ameritech Response at 3-7.

[129] BellSouth Response at 11.

[130] *Id.* at 11-12. BellSouth states that its installation and maintenance systems do not identify whether a particular customer is an enhanced service provider, and that it cannot determine this information by the type of circuit ordered by the customer.

[131] *Id.* at 13.

[132] *Id.* at 11-12.

[133] Ameritech Response at 4.

[134] *Id.* at 5-6.

[135] *Id.* at 5-7.

[136] *Id.* at 5.

[137] IDCMA Reply at 7-9.

[138] We note that some BOCs may seek to have enhanced service providers order certain intrastate services from special ONA tariffs applicable to them. We are concerned over the potential use of such an approach, which specifically identifies enhanced service providers when they order services, for discriminatory purposes. Furthermore, as is the case with AT&T, many enhanced service providers will be well-known to the BOCs, especially if they are major firms or compete with the BOCs in the provision of enhanced services. *See supra* note 121. Each BOC must specifically demonstrate how its provisioning procedures preclude discrimination using any information it may have or acquire about the identity of enhanced service providers. Moreover, each BOC's amendment should describe the training that the BOC provides to its employees to ensure that they comply with our nondiscriminationrules.

[139] *See supra* note 117 for sanctions that could apply in connection with this requirement. We delegate to the Bureau authority to review the annual affidavits that the BOCs will be required to file if their quality reports are eliminated, to ensure that the BOCs are adhering to their nondiscriminatoryprocedures.

[140] It is also true that since the BOCs face less competition than AT&T, there is less risk that information provided by the BOCs on the quality of their network services could be used against them by competitors that do not make similar information publicly available. This fact does not mean, however, that quality reporting is necessary for the BOCs in all circumstances. We believe that the most prudent and least burdensome regulatory course in this area is to follow the procedures discussed above to examine the BOCs' ability to discriminate in provisioning and the usefulness of quality reports in controlling such discrimination.

[141] Although, as IDCMA argues, the BOCs did not request relief in a petition for reconsideration, the parties received the opportunity to address the BOCs' requests in replies. Moreover, we frequently adopt changes in reconsideration orders in light of other changes that were specifically requested in a reconsideration petition. Furthermore, since we will remove the quality reporting requirement only for BOCs that demonstrate in their ONA plans that their provisioning procedures do not permit quality-based discrimination, parties will have an additional opportunity, in commenting on the ONA plans, to scrutinize the BOCs' ability to discriminate in the quality of network services they provide competing enhanced service vendors.

[142] Petition of the American Telephone and Telegraph Company for Limited and Temporary Waiver of 47 CFR Section 64.702 Regarding its Provision of Unregulated Services Externally to the AT&T-C Network, *Memorandum Opinion and Order*, Mimeo No. 1147 (released Nov. 27, 1985).

[143] AT&T Petition at 13-15.

[144] *Id.* at 16.

[145] Compuserve Response at 21.

[146] ANPA Response at 8.

[147] *Id.*

[148] We require, in addition, that AT&T file on an annual basis an affidavit with this Commission, signed by its officer principally responsible for installation and maintenance operations, that the installation and maintenance reports it has filed during the preceding year are true and accurate and comply with our requirements, and that it has not, in fact, discriminated in the installation and maintenance of basic services provided to its own enhanced service operations and to unaffiliated enhanced service providers. We delegate authority to the Bureau to review this affidavit.

[149] We have addressed arguments regarding the efficacy of a survey method for identifying enhanced service providers for reporting purposes in para. 70 above.

[150] In the event that we do not eliminate the quality reporting requirement for AT&T, because of AT&T's failure to make the necessary showing in its ONA plan amendments, or otherwise, AT&T will be required to follow this reporting format for its quality reports as well.

[151] BellSouth Response at 12; Ameritech Response at 6; Bell Atlantic Response at 4-5.

[152] The issue of the appropriate installation and maintenance reporting requirements for the BOCs is in the same procedural posture as the issue of their quality reporting requirement, *i.e.*, no BOC filed a petition for reconsideration on the issue and three BOCs requested in their responses the relief sought by AT&T in its petition. For the reasons discussed with respect to quality reporting, *see supra* paras. 76-77, we have decided to grant the BOCs the same relief as AT&T, subject to the conditions specified herein.

[153] As we have discussed in the context of quality reporting, we are concerned that a BOC would be able to identify enhanced service providers, either because the providers are major firms or competitors or because the BOC would seek to identify such providers for purposes such as applying special ONA tariffs to them. Such specific information on the identity of enhanced service providers potentially could be used for discriminatory purposes. The BOCs must show specifically that their installation and maintenance procedures preclude discrimination through the use of such information before we will modify the reporting format.

[154] We also require the BOCs, like AT&T, to file annually affidavits with this Commission regarding their installation and maintenance reports and practices as described above for AT&T in note 148. We delegate to the Commission authority to review such affidavits.

[155] *Phase II Order*, 2 FCC Rcd at 3094-3098, paras. 152-156, 162-165, 172- 174, and 176.

[156] NYCHA/CCTU Petition at 6.

[157] *Id.* at 7.

[158] *Id.* at 8.

[159] *Id.* at 9.

[160] In the alternative, ANPA asks us to adopt the prior authorization rule.

[161] *See* ATSI Response at 2-3; ANPA Response at 2-3, 5-6; MCI Response at 10; API Response at 3; Telocator Reply at 3.

[162] Telocator Reply at 3 n. 3.

[163] *See, e.g.*, ATSI Response at 4.

[164] For example, ATSI expresses particular concern that the current CPNI rule confers an advantage on the BOCs with respect to new basic service installations. It states that BOCs will be in a position to contact new basic service subscribers and make a sale before competing enhanced service providers even learn of the new subscribers' presence in the market. It states that this advantage is of particular importance in the context of new service concepts, like voice messaging. ATSI Response at 6-7.

[165] NYNEX Response at 3; PacTel Response at 4; and BellSouth Response at 15, *citing Phase II Order*, 2 FCC Rcd at 3094, para. 152.

[166] NYNEX Response at 3-4, *citing Phase II Order*, 2 FCC Rcd at 3095, para. 153.

[167] BellSouth Response at 16.

[168] Southwestern Bell Response at 5.

[169] BellSouth Response at 16.

[170] Southwestern Bell Response at 4; BellSouth Response at 17; NYNEX Response at 5; Ameritech Response at 8-9; PacTel Response at 4-5; Bell Atlantic Response at 2-3; and US West Response at 13.

[171] *See* BellSouth Response at 17; US West Response at 13.

[172] BellSouth Response at 17.

[173] *Id.* at 17; Ameritech Response at 9; and Bell Atlantic Response at 3.

[174] Bell Atlantic Response at 3; Southwestern Bell Response at 6.

[175] Southwestern Bell Response at 4.

[176] NYNEX Response at 5. *See also* Ameritech Response at 9.

[177] Communications Protocols under Section 64.702 of the Commission's Rules and Regulations, *Memorandum Opinion and Order, Order and Statement of Principles*, 95 FCC 2d 584 (1983).

[178] Ameritech Response at 10.

[179] PacTel Response at 3. PacTel states that customers' interest in integrated marketing evidences their expectation and desire that the BOCs use their CPNI in enhanced service marketing.

[180] The NYCHA/CCTU petition requests adoption of the prior authorization rule for the BOCs only. However, other parties discuss adoption of the prior authorization rule for "carriers" in general and AT&T in particular. *See* IDCMA Response at 21-22; ANPA Response at 2-7. The arguments presented in the record, which primarily focus on the BOCs, do not cause us to alter our reasoning in the *Phase I Order* for adopting the existing CPNI rule for AT&T. *See Phase I Order*, 104 FCC 2d at 1089-90, paras. 260-262.

[181] *See* paras. 101, 106-110.

[182] 3 FCC Rcd 22 at , para. 21, n. 34.

[183] In contrast, the prior authorization approach would result in the imposition of a limited, but significant, form of structural separation between a BOC's enhanced service and network services operations pending a customer's CPNI authorization. We have repeatedly recognized that structural separation rules deny customers the efficiencies and other benefits that integrated operations can provide. *See Phase I Order*, 104 FCC 2d at 1002-1004, paras. 79-81; *Phase I Recon Order*, 2 FCC Rcd at 3038-39, paras. 25-30.

[184] Customers that decide differently would be free to prohibit the BOC enhanced services personnel from accessing their CPNI.

[185] Such BOC offerings also could have a similar stimulative effect on the CPE market, since many of the functions that could be provided as enhanced services can also be provided through CPE. Thus, carriers' enhanced service offerings may compete with CPE solutions as well as other vendors' enhanced services.

[186] Moreover, we stated in the *BOC CPE Relief Order*, that the CPNI of large telecommunications users has the most value. 102 FCC Rcd at 153, para. 68. However, the marketing advantage

conferred by BOC access to such CPNI is substantially mitigated by the sophistication of these customers, who generally solicit bids from several enhanced services vendors before they make any purchase. Thus, an initial enhanced service solicitation to a large customer would not generally lead to an immediate sale, but would more often result in the customer contacting other enhanced services vendors to receive competing offers.

[187] *United States v. AT & T*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983)(approving *MFJ)* ; *United States v. AT & T*, 569 F. Supp. 1057 (D.D.C.), *aff'd sub nom. California v. United States*, 464 U.S. 1013 (1983)(approving Plan of Reorganization). *See United States v. Western Electric Co., Inc.*, Civil Action No. 82-0192 (Sept. 10, 1987).

[188] NYCHA/CCTU Petition at 11.

[189] Although it does not specifically address this or any of the other alternative proposals suggested by NYCHA/CCTU, ANPA supports rules that "make it easy and convenient for users to control or limit [carrier] access to their CPNI." ANPA Response at 7, *citing* NYCHA/CCTU Petition at 11.

[190] NYNEX Response at 7.

[191] *Id.*

[192] Furnishing of Customer Premises Equipment by the Bell Operating Telephone Companies and the Independent Telephone Companies, *Order* (FCC Mimeo No. 119, released Dec. 30, 1987).

[193] *See supra* para. 94.

[194] *Id.*

[195] *See* Phase II Order, 2 FCC Rcd at 3096, para. 165. The notification must state clearly the options and choices that customers have regarding CPNI. The response form must give customers an opportunity to use it to exercise any of the options available to them under our CPNI requirements. The response form must, for example, contain ample instructions and space for customers to notify the carrier of their decision to restrict carrier enhanced service personnel from accessing their CPNI; to establish partial or temporary CPNI restrictions; and to make their CPNI available to independent enhanced service vendors generally or to specific vendors. The content and structure of the notifications and response forms will be reviewed to make certain that customers' interests will be protected.

[196] Southwestern Bell Petition at 23.

[197] Id. at 24.

[198] IDCMA Response at 24.

[199] AT&T Response at 3-5.

[200] Phase II Order, 2 FCC Rcd at 3097, at paras. 172-73.

[201] Phase II Order, 2 FCC Rcd at 3097, para. 173; Phase I Recon Order, 2 FCC Rcd at 3042, paras. 45-46; Phase I Further Recon Order, FCC 88-9 (released Feb. 18, 1988) para. 23.

[202] *See* Phase II Order, 2 FCC Rcd at 3087-88, paras. 107-112.

[203] Ameritech Petition at 21.

[204] Id.

[205] NYNEX Response at 9.

[206] Id.

[207] Southwestern Bell Response at 11-12.

[208] Compuserve Response at 22, IDCMA Response at 11, and NATA Response at 4.

[209] *See, e.g.*, IDCMA Response at 13, NATA Response at 5.

[210] IDCMA Response at 12, n. 16.

[211] AT&T Structural Relief Reconsideration Order at para. 27.

[212] BOC CPE Relief Reconsideration Order, 3 FCC Rcd 22 at paras. 12-14.

[213] Moreover, Ameritech's argument that a twelve-month period will inhibit network innovation and delay the initiation of new services ignores the provision of the rule that permits as little as six months public notice for services that can be introduced within twelve months of the make/buy point.

[214] 77 FCC 2d at 447, n. 57.

[215] International Business Machines Corp., Memorandum Opinion and Order, 58 Rad. Reg. 2d (P&F) 374 (released June 11, 1985).

[216] Amendment of Section 64.702 of the Commission's Rules and Regulations, (Third Computer Inquiry) CC Docket No. 85-229, Phase I, Notice of Proposed Rulemaking, 50 Fed. Reg. 33581 (Aug. 20, 1985) at paras. 148-152.

[217] 2 FCC Rcd at 3102-3106, paras. 211-237.

[218] In addition to the Commission's LADT Ord er, Pacific cites Pacific Bell, Request for Authority to Provide Asynchronous/X.25 Protocol Conversion for its "Victoria" Technology on an Unseparated Basis For a One-Year Trial Period, Memorandum Opinion and Order, 2 FCC Rcd 4411 (1987), application for review pending. In the latter Order, the Bureau classified equipment PacTel proposed to place on customer premises to support the provision of multiple voice and data channels as unregulated CPE, because the equipment performs both modem-like and NCTE functions in addition to multiplexing. However, the Bureau waived the Computer II separate subsidiary rules to permit PacTel to offer such equipment, for purposes of a trial, on an unseparated basis.

[219] PacTel Petition at 14-15.

[220] Id. at 17.

[221] Verilink Response at 3-5.

[222] *See supra* paras. 116, 121.

[223] PacTel supports this contention in its reply.

[224] Verilink Response at 7-9.

[225] Southwestern Bell Response at 10-11.

[226] AT&T Response at 2 n. *.

[227] IDCMA Response at 5-8.

[228] Id. at 8 n. 9.

[229] Id. at 8-9.

[230] NATA Response at 2.

[231] IBM Response at 16-18.

[232] Id. at 16-17.

[233] 47 U.S.C. § 157, 218.

[234] PacTel Reply at 8-10.

[235] USTA Reply at 5.

[236] Bell Atlantic Reply at 6-8.

[237] Verilink Reply at 5-7.

[238] Id. at 8-10.

[239] IDCMA Reply at 4, 5.

[240] *See* Letter from James L. Casserly (representing IDCMA) to William J. Tricarico, Secretary, FCC, in CC Docket No. 85-229, Phase II and AAD 6-1463 (filed Nov. 4, 1987) at 3-4, citing Phase II Order at para. 234.

[241] LADT Order, *supra* note 215 at nn. 34 and 41. Bell Atlantic notes in its reply that while SLCs fall within the multiplexer exception, they also perform functions other than multiplexing that carriers have been forbidden to provide in other types of regulated multiplexers on customer premises. In the LADT Order, we distinguished SLCs from the DSLC equipment that we found not to be within the exception by noting that, for example,

regulated SLCs permit multiple subscribers (often in rural regions) to receive individual service on a multiplexed basis eliminating the need for multiple party line service. Id. at n. 34.

[242] For example, carriers may provide versions of SLCs that are designed to be used with fiber optic loop plant on customers premises as part of regulated equipment.

[243] We delegate to the Bureau authority to rule on such requests.

[244] 2 FCC Rcd at 3105, para. 234.

[245] *See supra* para. 135.

[246] 2 FCC Rcd at 3102, para. 211 n. 494.

[247] However, in attempting to meet this standard, carriers may refer to factors, such as the purpose or use for which an offering is proposed, that we discussed in the Phase II Order regarding the scope of the multiplexer exception. Furthermore, specific showings that discrepancies between the price and cost of local loops skew customer choice to a degree that carriers are unable to realize real efficiencies available from loop multiplexing if the equipment on the customer premises is provided on a deregulated basis could also be relevant to our analysis. However, we expect such showings to be complete, detailed, and well-documented.

[248] Such changes in the network interface standards also presumably would require changes on short notice in the CPE provided by the carrier. The purpose of our network disclosure rules is to prevent carriers from using their knowledge of network changes to gain an advantage over competitive suppliers for their CPE offerings. When such changes occur, some entity will have to make the CPE that is compatible with the new network services or standards; our rules simply seek to ensure that this role is not limited to a carrier's own CPE operations or a favored CPE supplier.

[249] While PacTel contends that the efficiencies realizable from integrating CPE functions into equipment providing multiplexing support a broadening of the current exception, its opponents correctly note that this argument cuts both ways -- that is, such efficiencies support the provision of mutiplexing through unregulated CPE, rather than through the folding of CPE functions into regulated multiplexers. These opponents note that such efficiencies are not limited to integrating modem-like functions into multiplexers and that neither PacTel nor any of its supporters have identified a stable line that would distinguish those CPE functions that carriers could integrate into regulated multiplexers from those that must be provided through CPE. We note that some of the hypothetical examples cited by the opponents seem extreme *(e.g.,* carrier provision of PBXs on a regulated basis if they include multiplexer functions), and that, as PacTel states, there are a large number of CPE functions that carriers have not in fact sought to incorporate into regulated multiplexers. However, the lack of any well-defined line between permissible and impermissible functions for purposes of the multiplexer exception makes expansion of the exception as suggested by PacTel and its supporters highly problematic.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-290

In re Applications of

TRI-M COMMUNICATIONS, LTD. File No. BPH-870317KE

For Construction Permit
for a New Television Station
Janesville, Wisconsin

Appearances

Thomas L. Root, Jill L. Rygwalski, and *Lorretta K. Tobin*, on behalf of Tri-M Communications, Ltd.; and *Norman Goldstein*, on behalf of Chief, Mass Media Bureau.

SUMMARY DECISION OF
ADMINISTRATIVE LAW JUDGE
JOSEPH CHACHKIN

Issued: February 29, 1988; Released: March 11, 1988

PRELIMINARY STATEMENT

1. Five applications were designated for hearing in this proceeding to select a permittee to operate a new commercial television station on Channel 57, Janesville, Wisconsin. Only the application of Tri-M Communications, Ltd. (Tri-M) remains. Tri-M's application could not be granted because of an unresolved air hazard issue designated against it. *Hearing Designation Order*, DA 87-1014, released August 10, 1987. On February 26, 1988, Tri-M filed a Petition for Leave To Amend and Amendment containing a determination of the Federal Aviation Administration (FAA) that its proposed tower will not constitute a hazard to air navigation. Tri-M filed, on the same date, a Contingent Motion For Summary Decision.

FINDINGS OF FACT

2. Tri-M has received an FAA determination of no hazard to its proposed tower site. There remains no genuine issues as to any material fact in this proceeding. The designated air hazard issue is resolved in Tri-M's favor.

CONCLUSIONS

3. The air hazard issue is resolved in Tri-M's favor. There are no other basic qualifying issues pending against Tri-M. Tri-M's applications is granted. Accordingly, IT IS ORDERED, That the Petition For Leave To Amend and Contingent Motion For Summary Decision ARE GRANTED and the application of Tri-M Communications, Ltd. for a construction permit for a new commercial television station at Janesville, Wisconsin IS GRANTED.[1]

FEDERAL COMMUNICATIONS COMMISSION

Joseph Chachkin
Administrative Law Judge

FOOTNOTE

[1] In the event exceptions are not filed within 30 days after the release of this Summary Decision, and the Commission does not review the case on its own motion, this Summary Decision shall become effective 50 days after its public release, pursuant to 47 C.F.R. 1.276(d).

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-488

In re Application of

EMERALD COAST BROADCASTING — File No. BPCT-870610KQ

For Construction Permit
for a New Television Station at
Destin, Florida

Appearances

Lewis J. Paper and *Charles B. Molster, III.*, on behalf of Emerald Coast Broadcasting and *Paulette Laden* on behalf of the Chief, Mass Media Bureau, Federal Communications Commission.

SUMMARY DECISION OF
ADMINISTRATIVE LAW JUDGE
RICHARD L. SIPPEL

Issued: March 2, 1988; Released: March 11, 1988

PRELIMINARY STATEMENT

1. This proceeding was designated for hearing by *Hearing Designation Order*, DA 87-1514, released November 2, 1987, 2 F.C.C. Rcd. 6701 (1987), published at 52 Fed. Reg. 43,112 (November 9, 1987). Initially there were four mutually exclusive applications, i.e., Sharon S. Smith, William F. Parrish, Jr., Philip A. Campolo d/b/a Airwave Media, Ltd., and Emerald Coast Broadcasting (Emerald). Emerald was the only party which filed its Notice of Appearance and paid the6,000 fee. 47 C.F.R. § 1.221(g) (1987). On motion of Emerald, the other three applications were dismissed with prejudice. *See Order*, FCC 87M-3211, released December 9, 1987. However, the application of Emerald remained in hearing status to resolve an air hazard issue.

FINDINGS OF FACT

2. On January 11, 1988, the Federal Aviation Administration (FAA) issued a Determination of No Hazard to Air Navigation in favor of Emerald's proposal. On February 1, 1988, Emerald filed a Motion for Summary Decision seeking to remove the air hazard issue, now the only outstanding issue involving Emerald. The time for completing the pleading cycle has expired. 47 C.F.R. § 1.251(b). The motion seeks the deletion of the air hazard issue based on the FAA's determination. The Mass Media Bureau advises that it will not interpose any objection to granting the Motion.

CONCLUSIONS OF LAW

3. The FAA has determined that Emerald's proposal will not constitute a hazard to air navigation. Such evidence precludes any need for further inquiry since the FAA's determination is conclusive as a matter of law in the absence of any substantial evidence to the contrary. *Southern Capital Television, Inc.*, 45 F.C.C. 2d 197 (1974). Thus, there is no longer any genuine issue of material fact outstanding with respect to the air hazard issue designated against Emerald. Therefore, the applicant is entitled to summary decision in its favor under the Commission's rules. 47 C.F.R. § 1.251(a). *See Summary Decision Procedures*, 34 F.C.C. 2d 485 (1972). There are no other outstanding issues regarding Emerald. Emerald has timely filed its Notice of Appearance and has paid the prescribed hearing fee. 47 C.F.R. § 1.221 (1987). Therefore, Emerald's application will be granted.

RULINGS

Accordingly, IT IS ORDERED that the Motion for Summary Decision filed by Emerald Coast Broadcast on February 1, 1988, IS GRANTED and the air hazard issue is resolved in the applicant's favor.

IT IS FURTHER ORDERED that the application of Emerald Coast Broadcasting (File No. BPCT-870610KQ) for a construction permit for a new television station at Destin, Florida IS GRANTED.

IT IS FURTHER ORDERED that this proceeding IS TERMINATED.[1]

FEDERAL COMMUNICATIONS COMMISSION

Richard L. Sippel
Administrative Law Judge

FOOTNOTE

[1] This Summary Decision disposes of the case in its entirety. It shall become effective 50 days after its public release if exceptions are not filed within 30 days, unless the Commission elects to review the case on its own motion. 47 C.F.R. § 1.276(d).

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-247

In re Applications of

SUSAN LUNDBORG File No. BPH-850711OR

FM ABILENE LIMITED PARTNERSHIP File No. BPH-850712VY

For Construction Permit for a
New FM Station on Channel 292A
Abilene, Texas

ORDER

Adopted: February 25, 1988; Released: March 11, 1988

By the Review Board:

1. The Review Board has under consideration an "Appeal" filed on January 29, 1988 by Vince Lee Broadcasting Ltd. (Vince Lee), oppositions thereto filed by Susan Lundborg (Lundborg) and by the Chief, Mass Media Bureau, and a "Withdrawal of Appeal" filed by Vince Lee on February 12, 1988. Vince Lee is a competing applicant with Lundborg in another proceeding for a new FM station at Ellwood, California (MM Docket No. 87-429), and here appeals from the ruling of presiding Administrative Law Judge Chachkin denying its petition for leave to intervene in this proceeding. *See Memorandum Opinion and Order*, FCC 88M-150, released January 22, 1988. However, Vince Lee now indicates that Lundborg has requested the voluntary dismissal of her Ellwood application and, upon grant of that dismissal request, Vince Lee will no longer be interested in further contesting Lundborg's qualifications or the resolution of the instant Abilene proceeding. Vince Lee Withdrawal of Appeal at 1-2. By Order styled *Addison Broadcasting Co., Inc.*, FCC 88M-380, released February 12, 1988, Administrative Law Judge Sippel granted the Lundborg request and dismissed her Ellwood application. Therefore, the Vince Lee request to withdraw its appeal shall be granted.

2. ACCORDINGLY, IT IS ORDERED, That the "Withdrawal of Appeal" filed on February 12, 1988 by Vince Lee Broadcasting Ltd. IS GRANTED, and its "Appeal" filed on January 29, 1988 IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Norman B. Blumenthal
Member, Review Board

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Applications of

PHOENIX MEDIA CORPORATION	**MM Docket No. 84-36** File No. BPIH-821129AH
LONG ISLAND RADIO COMMUNICATIONS, INC.	**MM Docket No. 84-38** File No. BPIH-830223AB

For Interim Authority to Operate the Facilities of Former Station WLIR(FM), Garden City, New York (92.7 MHz, Channel 223, 1 kW at 521 feet)

ORDER

Adopted: February 29, 1988; Released: March 11, 1988

By the Commission:

1. The Commission has before it: (1) a Petition for Reconsideration filed February 25, 1987 by Phoenix Media Corporation (Phoenix); (2) a Joint Petition for Approval of Settlement Agreement filed March 27, 1987 by Phoenix and Long Island Radio Communications, Inc. (LIRC), a supplement thereto filed April 10, 1987, an Opposition filed April 20, 1987 by Spectron Broadcasting Corporation and Angela V. Shaw (Spectron), and a Reply filed April 30, 1987 by Phoenix and LIRC; (3) a Motion to Strike [Spectron's Opposition] filed April 27, 1987 by Phoenix and LIRC, and an Opposition filed May 1, 1987 by Spectron; (4) a Petition for Leave to Intervene filed April 20, 1987 by Spectron, and an Opposition filed May 5, 1987 by Phoenix and LIRC; (5) a Petition to Revoke Special Temporary Authority and Petition to Deny Interim Authority, and a Petition for Leave to Intervene filed June 30, 1987 by William P. Carlan, and an Opposition filed July 15, 1987 by Phoenix; (6) Supplemental Comments filed December 21, 1987 by LIRC; and (7) a letter withdrawing Phoenix's Peition for Reconsideration filed December 21, 1987 by Phoenix.

2. Phoenix and LIRC are mutually exclusive applicants for interim authority to operate the facilities of station WLIR-FM, Garden City, New York. Phoenix has broadcast from the facilities since January 10, 1983 under a grant of special temporary authority (STA). On January 26, 1987, the Commission reaffirmed its grant of authority to LIRC following a remand of an earlier grant by the United States Court of Appeals for the District of Columbia Circuit. *Phoenix Media Corp.*, 2 FCC Rcd 498 (1987). Phoenix sought reconsideration of the Commission's action. However, Phoenix and LIRC subsequently agreed to settle this proceeding and submitted the above-described Joint Petition for Approval of Settlement Agreement.

3. Under the terms of the proposed settlement, Phoenix would continue to operate WLIR-FM until the earliest of the following events: (1) a permanent licensee began operating WLIR-FM, (2) the Commission issued an order barring Phoenix's principal, Elton Spitzer, from simultaneously operating WLIR- FM and station WCTO-FM, Smithtown, New York,[1] or (3) January 1, 1988, the date LIRC proposed to commence operating WLIR-FM. During its operation of WLIR-FM, Phoenix would pay LIRC5,000 per week until August 1987 and7,000 per week through December 31, 1987. At such time as LIRC began operation, Phoenix would lease the facilities of WLIR-FM to LIRC at a rate of2,000 per month. The parties assert that approval of the agreement would serve the public interest by terminating this burdensome litigation. They have submitted declarations that they did not file their applications for the purpose of entering into or carrying out a settlement agreement.

4. Spectron is not a party to this proceeding. It is an applicant for permanent authority to operate the facilities of station WLIR-FM. Spectron seeks to intervene in this proceeding for the purpose of opposing the settlement agreement. Spectron raises numerous objections to the settlement agreement. Spectron asserts that: (1) the agreement is a sham transaction designed to allow Spitzer to avoid the financial and reporting restrictions customarily placed on interim operations by continuing to operate the station under an STA; (2) Spitzer has improperly attempted to acquire an interest in one of the applicants for permanent authority; (3) the agreement demonstrates that LIRC is not financially qualified to operate the station because LIRC proposed to defer operation until January 1, 1988; (4) extension of Phoenix's STA violates the Commission's rules; (5) continued operation of WLIR-FM makes Spitzer's assignment applications inconsistent and therefore improper under the Commission's rules, see *supra*, note 1; and (6) the settlement would disserve the public interest because, as part of the settlement, Phoenix and LIRC agreed not to take any action to accelerate the award of a permanent license, and because there is a possiblity of the station going silent if Phoenix terminates its operation under the STA before LIRC is prepared to commence operation. In view of these objections, Spectron proposes that WLIR- FM should be operated on an interim basis by a consortium of applicants for permanent authority.

5. On October 5, 1987, the Commission granted the application of Jarad Broadcasting Company, Inc. to become the permanent licensee of WLIR-FM and denied Spectron's application. *Jarad Broadcasting Co., Inc.*, 2 FCC Rcd 6080 (1987), appeal pending sub nom. *Spectron Broadcasting Corp. v. FCC*, No. 87- 1635 (D.C. Cir. Oct. 29, 1987). Pursuant to this grant, Jarad commenced operation on the WLIR-FM channel on December 18, 1987, using the call letters "WDRE". This action moots Spectron's objections to the agreement.[2] There is no longer any need to consider the propriety of Spitzer's continuing interim operation of WLIR-FM, because he will no longer operate the station in light of the grant to Jarad. Similarly, the grant to Jarad moots Spectron's contention that LIRC -- which will not commence interim operation -- plans to defer the commencement of interim operation. The selection of Jarad also eliminates any possible significance of the agreement between Phoenix and LIRC not to take any action to accelerate the grant of a permanent operator. Finally, there is no longer any need to consider the pos-

sibility that WLIR-FM might go silent or that it might be appropriate to appoint a consortium of applicants to operate WLIR-FM on an interim basis, as Spectron suggests. Indeed, at this juncture, the only effect of approving the settlement is to permit Phoenix's reimbursement of LIRC pursuant to the agreement.

6. In view of the foregoing, we find that the agreement comports with the Communications Act and the Commission's Rules and would serve the public interest. *See* 47 U.S.C. ' 311(c) and 47 C.F.R. ' 73.3525.

7. ACCORDINGLY, IT IS ORDERED, That the following pleadings ARE DISMISSED as moot: (1) the Petition for Leave to Intervene filed April 20, 1987 by Angela V. Shaw and Spectron Broadcasting Corporation; (2) the Petition to Revoke Special Temporary Authority and Petition to Deny Interim Authority, and the Petition for Leave to Intervene, filed June 30, 1987 by William P. Carlan; and (3) the Motion to Strike filed April 27, 1987 by Phoenix Media Corporation and Long Island Communications, Inc.

8. IT IS FURTHER ORDERED, That the Joint Petition for Approval of Settlement Agreement filed March 27, 1987 by Phoenix Media Corporation and Long Island Radio Communications, Inc. IS GRANTED, and the attached Agreement IS APPROVED.

9. IT IS FURTHER ORDERED, That the Petition for Reconsideration filed February 25, 1987 by Phoenix Media Corporation IS DISMISSED pursuant to Phoenix's request. [3]

10. IT IS FURTHER ORDERED, That the applications for interim authority filed by Phoenix Media Corporation (File No. BPIH-821129AH) and Long Island Radio Communications, Inc. (File No. BPIH-830223AB) ARE DISMISSED with prejudice.[4]

11. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster, III
Acting Secretary

FOOTNOTES

[1] At the time the settlement agreement was filed, Spitzer was a principal of the proposed assignee of stations WGSM, Huntington, New York, and WCTO- FM, Smithtown, New York. Absent a waiver, the Commission's multiple ownership rules would have prohibited Spitzer from having simultaneous interests in both WLIR-FM and WCTO-FM. 47 C.F.R. ' 73.3555(a)(2). On October 22, 1987, the parties to the proposed assignment notified the Commission that the assignment would not take place.

[2] We also note that the arguments by William P. Carlan that the Commission should deny STA and interim authority to Elton Spitzer are moot, because no such grant will be made in any event.

[3] Phoenix also dismissed its judicial appeal of the Commission's grant to LIRC. *Phoenix Media Corp. v.* FCC, No. 85-1529 (D.C. Cir. Feb. 10, 1988).

[4] LIRC's application has become moot in light of the commencement of permanent operation.

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 85-361

In re Applications of

LEININGER-GEDDES PARTNERSHIP — File No. BPCT-850607KO

CAPITOL COMMUNICATIONS CORPORATION — File No. BPCT-850725LB

For Construction Permit
for a New Television Station
Little Rock, Arkansas

ORDER

Adopted: February 29, 1988; Released: March 11, 1988

By the Commission:

1. The Commission has under consideration a Review Board Decision, *Leininger - Geddes Partnership*, 2 FCC Rcd 3199 (1987); an Application for Review filed June 29, 1987 by Capital Communications Corporation; and an Opposition filed July 14, 1987 by Leininger-Geddes Partnership.

2. IT IS ORDERED, That, pursuant to 47 U.S.C. § 5(c)(5) and 47 C.F.R. § 1.115(g), the Application for Review filed June 29, 1987 by Captial Communications Corporation IS DENIED.

FEDERAL COMMUNICATION COMMISSION

H. Walker Feaster, III
Acting Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Garland D. Moser FOIA Control No. 87-136

On Request for Inspection
of Records

ORDER

Adopted: March 1, 1988; Released: March 11, 1988

By the Commission:

1. The Commission has before it for consideration an Application for Review of the initial determination of Richard Smith, Chief, Field Operations Bureau, filed by Vincent R. Kirst on behalf of Garland D. Moser in the above-captioned matter.

2. Pursuant to his initial request for production of documents under the Freedom of Information Act, 5 U.S.C. §552, Mr. Moser was supplied with copies of certain letters of complaint in which he was named. However, portions of those letters were withheld to protect the identity of the Commission's confidential sources. Mr. Moser now seeks access to the withheld material.

3. The Freedom of Information Act specifically exempts from disclosure "investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would . . . (D) disclose the identity of a confidential source . . . ." 5 U.S.C. §552(b)(7). In this case, one complainant specifically requested confidentiality, and the others submitted their information in a manner from which a request for confidentiality should be implied. *Brant Construction Co. v. E. P. A.*, 778 F.2d 1258, 1263-64 (7th Cir. 1985). Thus, portions of the complaint letters which identified the complainants or from which the identify of the complainants could reasonably be determined were properly withheld. *See* also *Sands v. Murphy*, 633 F.2d 968 (1st Cir. 1980).

4. Accordingly, IT IS ORDERED, That the Application for Review filed by Vincent R. Kirst on behalf of Garland D. Moser IS DENIED.

5. The requester may seek judicial review of this decision pursuant to 5 U.S.C. § 552(a)(4)(B).

The officials responsible for this action are the following Commissioners: Dennis R. Patrick, Chairman, James H. Quello, Patricia Diaz Dennis.

FEDERAL COMMUNICATIONS COMMISSION2

H. Walker Feaster III
Acting Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Harry Steven Davoust FOIA Control No. 87-137

On Request for Inspection
of Records

ORDER

Adopted: March 1, 1988; Released: March 11, 1988

1. The Commission has before it for consideration an Application for Review of the initial determination of Richard Smith, Chief, Field Operations Bureau in the above-captioned matter.

2. Pursuant to his initial request for production of documents under the Freedom of Information Act (5 U.S.C. § 552), Mr. Davoust was supplied with copies of certain letters of complaint in which he was named. However, portions of those letters were withheld to protect the identity of the Commission's confidential sources. Mr. Davoust now seeks access to the withheld material.

3. The Freedom of Information Act specifically exempts from disclosure "investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would . . . (D) disclose the identity of a confidential source . . . ." 5 U.S.C. § 552(b)(7). In this case, two complainants specifically requested confidentiality, and the others submitted their information in a manner from which a request for confidentiality should be implied. *Brant Construction Co. v. E.P.A.*, 778 F.2d 1258, 1263-64 (7th Cir. 1985). Thus, portions of the complaint letters which identified the complainants or from which the identity of the complainants could reasonably be determined were properly withheld. *See* also *Sands v. Murphy*, 633 F.2d 968 (1st Cir. 1980).

4. Accordingly, IT IS ORDERED, That the Application for Review filed by Harry Steven Davoust IS DENIED.

5. The requester may seek judicial review of this decision pursuant to 5 U.S.C. § 552(a)(4)(B).

The officials responsible for this action are the following Commissioners: Dennis R. Patrick, Chairman, James H. Quello, Patricia Diaz Dennis.

FEDERAL COMMUNICATIONS COMMISSION2

H. Walker Feaster III
Acting Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

RCA American Communications, Inc. — Transmittal No. 293

Revisions to Tariff
F.C.C. Nos. 1 and 2

MEMORANDUM OPINION AND ORDER ON RECONSIDERATION

Adopted: March 1, 1988; Released: March 11, 1988

By the Commission:

I. INTRODUCTION

1. RCA American Communications, Inc. (RCA Americom) has filed a petition for reconsideration of this Commission's Order in the above-captioned matter, *RCA American Communications, Inc.*, 2 FCC Rcd 2363 (1987) (*April 22 Order*). The captioned tariff revisions of RCA Americom were suspended for one day to permit the imposition of an accounting order[1] and designated for investigation by the Common Carrier Bureau.[2] In the *April 22 Order* we resolved all of the issues but one in RCA Americom's favor. RCA Americom has now petitioned for reconsideration of our determination that it had failed to demonstrate that RCA Corporation had paid the insurance premium for its failed SATCOM F-3 satellite. For the reasons discussed below, we will deny the petition.

II. BACKGROUND

2. The tariff revisions at issue in this proceeding proposed to increase rates for RCA Americom's 1988 fixed term transponder service customers by 15 percent. The proposed rate increase was initially filed by RCA Americom together with substantial revisions to other terms of its long-term service tariffs under Transmittal Nos. 191 and 273. These revisions were rejected by this Commission in *RCA American Communications, Inc.*, 86 FCC 2d 1197 (1981) (*1981 Order*). That Order concluded that the structural changes to RCA Americom's tariffs were unreasonable. The *1981 Order* also disallowed the rate increases finding them to be "inextricably linked" to the rejected structural revisions. *Id.* at 1206.

3. Both RCA Americom and Showtime/The Movie Channel (Showtime), a 1988 fixed term transponder service customer of RCA Americom, filed appeals of the *1981 Order* in the United States Court of Appeals for the District of Columbia Circuit. *RCA American Communications, Inc. v. FCC*, Case Nos. 81-1558 and 81-1597. In an unpublished *Judgment and Memorandum* issued on July 21, 1982, the Court remanded the case to this Commission for an unambiguous statement of the rationale underlying that Order. We responded to the Court in *RCA American Communications, Inc.*, 94 FCC 2d 1338 (1983) (*1983 Order*). The Court subsequently affirmed the *1981 Order* in an unpublished *Judgment and Memorandum* entered on March 8, 1984. The parties filed various applications for review of our earlier rulings in this case which were denied by the *April 22 Order*.

4. Following the rejection of Transmittal Nos. 191 and 273, RCA Americom filed the captioned tariff revisions on May 29, 1981 pursuant to Special Permission No. 81-239 which was granted on that day by the Acting Chief, Common Carrier Bureau. These revisions were filed on five days' notice and proposed structural changes conforming with the *1981 Order* as well as the rates and rate of return proposed in Transmittal No. 191. As discussed above, those revisions were suspended for one day to permit imposition of an accounting Order and designated for investigation.[3]

5. The Bureau's *Investigation Order* propounded ten questions. We found RCA Americom's answers to nine of these questions to be satisfactory. One question, however, was not adequately resolved by the parties' pleadings. The Bureau stated in the *Investigation Order* that

> RCA Americom has apparently included the cost for insurance of satellite loss in its rate base, but it is not clear whether it has included revenues received from the loss of its SATCOM F-3 satellite as an offset to its revenue requirement. RCA Americom should furnish the costs for insurance and the revenues from the loss of SATCOM F-3 and should explain how each is accounted for in this filing.

Id. at para. 8.

6. RCA Americom argued in its direct case that it did not include the cost of insurance for the ill-fated SATCOM F-3 in its rate base when it filed the original rates for its 1988 fixed term transponder service under Transmittal No. 78 in 1978. RCA Americom stated that it did not anticipate the early launch of SATCOM F-3 in December 1979 and, accordingly, had not purchased launch insurance for this satellite at the time it filed Transmittal No. 78. [4] After it filed Transmittal No. 78 and prior to the launch of SATCOM F-3, however, RCA Americom states that it did purchase launch insurance to protect the asset value of the satellite and certain anticipated revenues. Following the loss of SATCOM F-3, RCA Americom paid approximately20,800,000, representing insured revenues, to its parent, RCA Corporation.

7. In its reply case, Showtime argued that RCA Americom included the cost of insurance for SATCOM F-3 as an expense and that this fact is reflected in its Financial Information supporting Transmittal No. 78. Moreover, Showtime argued that Transmittal No. 78 clearly calculated the projected costs and expenses for SATCOM F-3, including insurance, to determine the revenue requirement and assumed a successful launch and deployment. Showtime concluded that, because RCA Americom gave its customers the benefit of the insurance proceeds to the extent it credited the rate base for the asset value of SATCOM F-3, RCA Americom was not justified in retaining any portion of the insurance proceeds without crediting its customers in some manner. Showtime also asserted that customers had been contributing to the cost of SATCOM F-3 for over three years before the time of its launch due to the inclusion of depreciation expenses and

capitalized costs of SATCOM F-3 in the space revenue requirement schedules submitted with Transmittal No. 78. In its rebuttal, RCA Americom contended that its treatment of the insurance proceeds was proper and that its customers were not entitled to the balance of the proceeds. RCA Americom concluded that, although it was not obliged to do so, it had reimbursed its customers fully for their contributions to the cost of SATCOM F-3.

8. In the *April 22 Order*, we concluded that RCA Americom had not met its burden of proving that its treatment of the20,800,000 that it paid to RCA Corporation was reasonable. We found that

> RCA Americom has not been able to show that satellite insurance, which RCA Americom included in its revenue requirement, does not include insurance for SATCOM F-3. RCA Americom fails to provide a breakdown of this component of O&M expense by satellite or type of insurance. *i. e.*, satellite "life" insurance or satellite "launch" insurance. We are thus unable to determine precisely what type of insurance on which satellites is included in RCA Americom's estimates.

Id. at 2 FCC Rcd 2370. We therefore directed RCA Americom to file a supplement to its direct case in light of the findings and conclusions of the *April 22 Order* and provided an opportunity for interested parties to file responsive pleadings. We stated that

> [s]uch pleadings should address the apportionment of the 20,800,000 among services and relevant time periods to determine a revenue requirement credit and the effect of that credit upon the resolution of the ultimate question in this investigation.

Id.[5]

III. PLEADINGS

A. Petition for Reconsideration

9. RCA Americom argues in its petition that its customers did not pay the insurance premium for SATCOM F-3 at issue here. RCA Americom contends that "confusion on this point arises from a misunderstanding of the distinction between satellite launch insurance (which is capitalized) and satellite life insurance (which is treated as a recurring expense)." RCA Americom Petition for Reconsideration at i. RCA Americom asserts once again that the premium for the policy at issue here was not included in the Transmittal No. 78 rate base. In addition, RCA Americom states that the proceeds paid to RCA Corporation were received "from supplemental launch insurance that the Company had obtained to guarantee its revenues" and that RCA Americom should not be required to credit this money to its customers because "RCA Americom never would have been allowed to charge ratepayers the premium for this element of the launch insurance anyway." *Id.* at ii.

10. RCA Americom states that a further review of its records reveals that ratepayers were not charged any portion of the insurance premium for SATCOM F-3 launch insurance. RCA Americom asserts that it demonstrated in its direct case that it had not included the SATCOM F-3 launch insurance premium in the Transmittal No. 78 revenue requirement. Rather, RCA Americom states, all references to satellite insurance in the material supporting Transmittal No. 78 are to satellite life insurance, not launch insurance.[6] RCA Americom contends that Showtime "apparently has confused the Commission" by noting RCA Americom's references to satellite insurance in the operations and maintenance (O&M) expense calculations of Transmittal No. 78. *Id.* at 7. RCA Americom attaches figures to its petition which it asserts prove that ratepayers did not pay the SATCOM F-3 launch insurance premium.[7] RCA Americom then sets out, for the first time, a chronology of events leading to its procurement of launch insurance for SATCOM F-3. *Id.* at 9-15.

11. Finally, RCA Americom argues that its treatment of the insurance proceeds was reasonable because, it states, it would not have been allowed to charge ratepayers for the premium to the extent it indemnified RCA Americom for lost revenues. RCA Americom states that it credited the asset value of the satellite to the rate base in order to be fair to its valued customers. The insurance for lost revenues, on the other hand, was not obtained for the benefit of its customers, RCA Americom states. Rather, this insurance was obtained solely to protect the revenues of the Company. RCA Americom concludes that this Commission would never have permitted the carrier to charge ratepayers a multi-million dollar premium to guarantee the Company's revenue stream. *Id.* at 15-17. Moreover, RCA Americom speculates, "Showtime would have argued vigorously against any attempt by the Company to include the 'lost revenues' element of the insurance premium in its rate base in Transmittal Nos. 191 and 293." *Id.* at 18. RCA Americom therefore urges us to reject Showtime's attempt to claim the proceeds of such insurance for which, RCA Americom reiterates, Showtime did not pay the premium. *Id.*

B. Opposition

12. In its opposition to the petition for reconsideration, Showtime labels RCA Americom's petition as "a smokescreen of *ex post facto* explanations" and asserts that RCA Americom has had seven years to clarify the issue before us. Showtime Opposition to Petition for Reconsideration (Showtime Opposition) at i. Showtime contends that RCA Americom has failed in all this time to explain what insurance it purchased and how the proceeds were attributed.[8] Moreover, Showtime notes, although RCA Americom refers to numerous contracts, letters and internal company decisions, RCA Americom has not supplied them.[9]

13. Showtime contends that RCA Americom's discussion of satellite life insurance and satellite launch insurance establishes a distinction without a difference. Showtime notes that the insurance component of O&M expenses in RCA Americom's Transmittal No. 78 was not subdivided by category of insurance. Showtime states that the anticipated revenues element of RCA Americom's satellite launch insurance policy cannot be distinguished from satellite life insurance, which would also cover anticipated revenues. *Id.* at 5-6. Showtime concludes that "[*e*] *x post facto* distinctions made by counsel for RCA Americom cannot undercut the basic fact that the carrier has already credited Customers for the capital cost component of the launch insurance proceeds and now must do so for proceeds from the anticipated revenues component

which was included at the last moment as another component of launch insurance and which is functionally indistinguishable from life insurance." *Id.* at 6.

14. Showtime also argues that RCA Americom cannot claim that RCA Corporation or its shareholders paid for the SATCOM F-3 launch insurance. Showtime asserts that it is inconceivable that RCA Americom would have omitted this cost from the rate base in Transmittal Nos. 191 and 293 if the launch had been successful. Instead, Showtime notes, "RCA Americom delayed making its insurance arrangements until the last moment and inadvertently gave itself the option . . . of reaping a 20.8 million insurance proceeds windfall." *Id.* at 7. Showtime argues that the numbers contained in RCA Americom's petition demonstrate that the carrier charged all of the insurance premiums it actually paid to the asset value of SATCOM F-3 which it subsequently wrote off against insurance proceeds.[10] Showtime reasons that if RCA Americom included all insurance costs as part of the asset value of SATCOM F-3 it cannot credit its customers with only part of the proceeds. *Id.* at 8-9. In addition, Showtime contends, if the launch had been successful, "there would have been nothing to prevent RCA Americom from transferring the cost of the insurance to the capitalized cost of the satellite and thus recovering the cost of the insurance premiums from Customers." *Id.* at 9. Finally, Showtime argues, the uncertainties created by the carrier's transmittals should be resolved against it because none of the distinctions that RCA Americom now claims between satellite life insurance and satellite launch insurance was set forth in its transmittals.

15. Showtime further argues that it is unreasonable for RCA Americom's parent and shareholders to retain the SATCOM F-3 insurance proceeds while at the same time its customers are charged higher rates based, in large part, on the SATCOM F-3 disaster. Showtime notes that, even leaving the contested20,800,000 aside, RCA Americom and RCA Corporation have reaped considerable benefit from the insurance proceeds. As Showtime observes, the insurance proceeds enabled RCA Americom to eliminate the capital costs of the lost satellite from its rate base without cost either to RCA Americom or its customers.[11] Showtime concludes that the lost revenues insurance that RCA Americom seeks to retain "covers revenues that were to be derived from the lost asset and should be applied for the benefit of the Customers just as was the case with the insurance proceeds for the cost of the satellite." *Id.* at 11. Showtime believes that the lost revenues insurance should be applied to further mitigate the effects of the loss of SATCOM F-3 on RCA Americom's customers who must pay higher rates because of that loss. *Id.* at 11-12.

C. Reply

16. In its reply to Showtime's opposition RCA Americom asserts that Showtime is attempting to confuse the record on the question of who paid the insurance premium. RCA Americom repeats its assertion that none of the launch insurance premiums was included in the rate base for SATCOM F-3. RCA Americom contends that nothing in Showtime's opposition rebuts this claim. RCA Americom Reply at 2-3. RCA Americom states that it had no reason to provide a breakdown of the type of insurance coverage purchased for its various satellites because satellite launch insurance is never included in the O&M expense account. RCA Americom argues further that Showtime has not rebutted the account contained in RCA Americom's petition of the chronology of events that led to the purchase of the insurance policy at issue here. RCA Americom concludes that the record demonstrates that the insurance premium for SATCOM F-3 was neither included in the rate base nor in the carrier's O&M expenses and that RCA Corporation therefore paid the insurance premium. *Id.* at 4-8.

17. RCA Americom also asserts that its treatment of the insurance proceeds was "more than fair." *Id.* at 8. RCA Americom contends that Showtime is seeking reconsideration of our determination in the *April 22 Order* that the dispute between the parties is, in essence, a dispute over who paid the insurance premium. According to RCA Americom, "Showtime is now arguing that RCA Americom *could have* charged the F-3 premium to ratepayers, and therefore that it should be treated as if it had done so." *Id.* (emphasis in original). RCA Americom states that it used a portion of the insurance proceeds to cover the cost of the asset and of interim satellite capacity obtained on Comstar D-2 "out of a general desire to treat customers fairly in a very competitive marketplace." *Id.* at 9.

18. Finally, RCA Americom dismisses what it characterizes as four minor arguments raised by Showtime. First, RCA Americom argues that Showtime "is attempting to confuse the Commission" by asserting that satellite launch insurance and satellite life insurance are functionally identical. RCA Americom notes that

> [s]atellite life insurance -- like launch insurance -- may cover the asset value of the spacecraft, or it may cover lost revenues. The asset coverage may be charged to ratepayers, but certainly the carrier is not required as a matter of law to charge ratepayers for the revenues coverage, and arguably would not be allowed to do so.

Id. at 10-11. Second, RCA Americom states, Showtime complains that RCA Americom has included the full launch insurance premium in the list of actual costs incurred for SATCOM F-3 and deducted that premium from the insurance proceeds. RCA Americom concludes that this action, and the disposition of the remainder of the insurance proceeds, was reasonable and does not demonstrate that its customers paid the insurance premium. *Id.* at 11.[12] In addition, RCA Americom disputes Showtime's purported contention that RCA Americom would have been required to charge ratepayers for lost revenues insurance because the carrier might otherwise have received unjustly low rates. RCA Americom states that this position is erroneous as a matter of law and that, in any event, it did not charge ratepayers for the revenues insurance. *Id.* at 11-12. Finally, RCA Americom disagrees with Showtime's position that RCA Americom's customers should receive the benefit of the insurance proceeds because they are paying higher rates in part due to the loss of SATCOM F-3. RCA Americom observes that we have already concluded that the loss of SATCOM F-3 substantially increased RCA Americom's costs of providing service and that it is those cost increases that are covered by Transmittal No. 293.

IV. DISCUSSION

19. In the *Investigation Order* the Bureau directed RCA Americom, *inter alia*, to "furnish the costs for insurance and the revenues from the loss of SATCOM F-3 and [to] explain how each is accounted for in this filing." *Id.* at para. 8. In its direct case RCA Americom provided a four-page response to this question. Based on this discussion, and the responsive pleadings filed by other parties, we concluded that it was not apparent who had paid the premium for the launch insurance policy covering the ill-fated SATCOM F-3. Under Section 204(a) of the Communications Act, 47 U.S.C. § 204(a), it is RCA Americom's responsibility to demonstrate that its tariff revisions are just and reasonable. RCA Americom failed to demonstrate in its direct case that RCA Corporation had paid the launch insurance premium for SATCOM F-3 and, accordingly, it failed to demonstrate that it was entitled to retain the20,800,000. We therefore directed RCA Americom to file a supplement to its direct case addressing the question of the proper apportionment of the20,800,000 to relevant services and time periods.[13]

20. RCA Americom now attempts to prove its contention that RCA Corporation paid the insurance premium. RCA Americom's petition consists of new material which was not included in its direct case. Under normal circumstances, the purpose of a petition for reconsideration is to demonstrate that this Commission, or the designated authority, has committed a material error in its resolution of the issues presented in a previous Order.[14] It is for this reason, and to endow our actions with some measure of finality, that new material normally may not serve as a basis for reconsideration of Commission orders.

21. The new information filed by RCA Americom does not meet the requirements of Section 1.106(c) of the Rules, 47 C.F.R. § 1.106(c), which permits reconsideration of Commission action based on new evidence only under limited circumstances.[15] RCA Americom makes no attempt to show that any of these circumstances is present here. Obviously, RCA Americom could not realistically contend that the new material is newly discovered or relates to matters which have occurred since its last opportunity to present such matters. The facts alleged have always been peculiarly within the power of RCA Americom to produce and the events at issue occurred several years prior to the submission of RCA Americom's direct case. Moreover, RCA Americom has not raised any public interest considerations which would require a different result.[16] Under these circumstances, reconsideration based on the newly submitted materials is not warranted.[17]

22. In addition, we do not believe we erred based on the record then before us.[18] RCA Americom had the opportunity in its direct case to provide evidence to support its claim that RCA Corporation had paid the insurance premium. Indeed, it is not unreasonable to suppose that RCA Americom's response to the Bureau's directive to "furnish the costs for insurance" would have included a demonstration that RCA Corporation had paid the premium and that RCA Americom had not included this as an expense or as a portion of the capitalized value of the asset. The submission of internal corporate documents, maintained in the ordinary course of RCA Americom's business, would have been a logical method of attempting to prove this. This RCA Americom did not do. Rather, RCA Americom's direct case contained no evidence on this point aside from its bare assertion that RCA Corporation had paid the premium. In contrast, the record clearly demonstrated that RCA Americom had included insurance as an O&M expense in its Transmittal No. 78 financial information. RCA Americom did not state at that time, or in its direct case in this investigation, what type of insurance was included or to which satellites it was applied. We are thus unable to conclude that we erred in finding that RCA Americom had not demonstrated that RCA Corporation had paid the launch insurance premium for SATCOM F-3.

V. ORDERING CLAUSES

23. Accordingly, IT IS ORDERED that the petition for reconsideration filed by RCA American Communications, Inc., in the above-captioned proceeding IS DENIED.

24. IT IS FURTHER ORDERED that the motion for leave to file a reply exceeding ten pages filed by RCA American Communications, Inc. IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

FOOTNOTES

[1] RCA American Communications, Inc., Mimeo No. 1289, released June 2, 1981 (*Suspension Order*).

[2] RCA American Communications, Inc., Mimeo No. 6153, released Aug. 6, 1985 (*Investigation Order*).

[3] The investigation issues are described in the *April 22 Order*, 2 FCC Rcd at 2363.

[4] RCA Americom contended that its Transmittal No. 78 revenue requirement would have been significantly higher had the cost of launch insurance for SATCOM F-3 been included.

[5] This Order will not address the arguments raised in the supplemental pleadings filed by the parties. The issues under discussion in those pleadings will be decided in a subsequent Order.

[6] RCA Americom notes that satellite launch insurance covers the loss of the satellite during launch or in the event of failure of the satellite before the satellite becomes operational. Satellite life insurance, on the other hand, provides for indemnification for premature failure of the satellite after it is in operation. RCA Americom's loss was indemnified by its satellite launch insurance policy.

[7] RCA Americom states that Transmittal No. 78 projected O&M expenses of approximately2.6 million for 1981 and approximately2.5 million for 1982. RCA Americom explains that

> [i]f one deducts the projected operating expense and launch incentives from the O&M estimates in Transmittal No. 78, then one is left with approximately600,000 in 1981 and 400,000 in 1982 to cover all other recurring expenses identified in the Transmittal. This is patently absurd given that Transmittal No. 78 assumed O&M expenses of over 2 million *in 1977*, and an 8% annual escalation in operations expenses thereafter as well as similar increases in all other expense categories.

RCA Americom Petition for Reconsideration at 8 (emphasis in original). RCA Americom concludes that it thus did not improperly include the launch insurance premium in its O&M expense category.

[8] Showtime also states that RCA Americom originally argued only the appropriateness of flowing through to income the excess of the insurance proceeds and did not contend during earlier phases of this proceeding that its customers did not pay the insurance premium. *Id.* at 4 n.2 (citing RCA Americom Reply, filed Oct. 29, 1980 at 19-20; RCA Americom Reply and Opposition, filed May 12, 1980 at 18-19 and Attachment 6).

[9] Showtime also notes that RCA Americom's petition is not verified by any responsible official of the company and argues that RCA Americom is misusing this Commission's processes by raising these new claims at this late date. Showtime further suggests that the petition is not timely. *Id.* at 4.

[10] Showtime notes that RCA Americom's direct case stated that RCA Americom had written off the40.3 million asset value of the satellite against the insurance proceeds. This amount included the cost of the insurance which RCA Americom purchased before the loss of SATCOM F-3. Showtime notes further that RCA Americom identified a total of43.6 million in actual spending for SATCOM F-3, including8.7 million for insurance. RCA Americom has stated that3.3 million of the insurance was an additional premium deducted from the insurance proceeds by the insurer after the satellite disaster. Showtime observes that, if this 3.3 million is deducted from the stated insurance cost of 8.7 million, the remainder of5.4 million matches almost precisely the 5.392 million premium the carrier claims in its petition for reconsideration to have paid. Showtime concludes that the 40.3 million asset value of the satellite included the full5.4 million in insurance premiums for SATCOM F-3 which RCA Americom now states it did not capitalize.

[11] Showtime argues that this prevented the harm to RCA Americom and its parent that would have occurred had the carrier either borne the loss itself (thus depressing the value of RCA Corporation's stock) or left the costs in the rate base and recovered the costs through higher rates (thus harming RCA Americom's competitive position).

[12] In a footnote to this discussion, RCA Americom notes that

> Showtime also expresses confusion concerning the portion of the premium that was deducted from the proceeds rather than paid in advance, claiming that the Company has never identified its purpose. . . . However, RCA Americom has consistently explained that under the terms of the launch policy an additional premium was due in the event of a complete launch failure. *See* , *e. g.*, RCA Americom Direct Case, Response to Question 6, at 3.

Id. at 11 n.16.

[13] RCA Americom has filed this supplement and responsive pleadings have also been filed.

[14] RCA Americom argues in its petition that Showtime "apparently has confused the Commission," Petition for Reconsideration at 6, and that this Commission

> clearly misunderstood [the distinction between satellite life insurance and satellite launch insurance] as seen by its incorrect summary of RCA Americom's rebuttal to Showtime. The Commission states that: "RCA Americom maintains that it did not include the costs of satelllite *life* insurance for Satcom F-3 in Transmittal No. 78 and that, therefore, its subsequent treatment of satellite *life* insurance proceeds was appropriate."

Id. at 7 (quoting *April 22 Order*, 2 FCC Rcd at 2370). This, of course, should have read launch insurance rather than life insurance. This error is in no way material to our resolution of this issue, however, which was based on the finding that RCA Americom had not demonstrated in its direct case what type of insurance had been included in its O&M expense and to what satellites it had been applied. RCA Americom also argues that it would have been improper to treat launch insurance as an expense rather than capitalizing it as a part of the asset value of the satellite. The fact that such treatment may have been improper does not conclusively demonstrate that the insurance was not so treated.

[15] Specifically, our Rules state that a petition for reconsideration which relies on facts not previously presented to this Commission or to the designated authority may be granted only if the petition relies on facts which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters; or if the petition relies on facts unknown to petitioner until after his last opportunity to present such matters; or if this Commission determines that consideration of the facts relied on is required in the public interest. *See* Sections 1.106(b)(2), 1.106(c), 47 C.F.R. §§ 1.106(b)(2), 1.106(c).

[16] *See* General Communication Inc. v. Alascom, 2 FCC Rcd 805, 806 (1987).

[17] We also reject RCA Americom's entirely unsupported contention that it would not have been permitted to include the cost of the insurance policy in its rate base to the extent that it included coverage for lost revenues. RCA Americom suggests no convincing reason why this Commission would require the exclusion of what would appear to be an ordinary and prudent expense from the rate base.

[18] It is worth noting that the central conclusion of the *April 22 Order* was that RCA Americom had not met its burden of proving that it had paid the insurance premium. The submission of material that was not a part of the record is, in essence, a tacit admission by RCA Americom that it believes that the record below was insufficient to meet its burden of proof.

Before the
Federal Communications Commission
Washington, D.C. 20554

LETTER

February 29, 1988; Released: March 11, 1988

Mr. Benjamin H. Dickens, Jr.
Blooston and Mordkofsky
2120 L Street, N.W.
Washington, D.C. 20037

Dear Mr. Dickens:

This is in response to your letter of July 31, 1987, on behalf of Lufkin Telephone Exchange, Inc., seeking an interpretation and clarification of certain accounting and separations procedures as set forth in Parts 32 and 36 of the Commission's rules.

Your letter states that Lufkin is uncertain about the application of the accounting procedures provided in Section 32.6124 for certain expenses associated with data processing. You state that this uncertainty is caused by the apparent requirement under Section 36.379 that certain computer expenses be recorded elsewhere in the revised Uniform System Of Accounts. You state that since Section 36.379 determines the allocation of Account 6620 for separations purposes, it apparently requires that certain expenses related to the data processing equipment associated with message processing be recorded in Account 6620 (6621 for Class A carriers). This interpretation is correct.

Account 6124, General Purpose Computers Expense, includes the cost of personnel whose principal job is the physical operation of general purpose computers and the maintenance of operating systems. This account excludes the cost of preparation of input data or the use of outputs that are chargeable to the activities being performed. Also, Account 6124 does not include the costs associated with personnel performing specific activities (*e. g.*, customer services) that utilize applications programs on general purpose computers. Thus, certain expenses associated with the processing of data or the use of applications programs on general purpose computers but incurred for specific activities are recorded in the accounts for those activities.

The expenses recorded in Account 6124 are assigned to the state and interstate jurisdictions in accordance with Section 36.311 of the Commission's rules. That section provides that those expenses are allocated between the jurisdictions on the basis of Account 2110, Land and Support Assets. On the other hand, the data processing expenses identified with specific activities and recorded in the accounts appropriate for those activities, *e. g.*, message processing and information management in, respectively, Account 6620 (6621 for Class A carriers) and Account 6720 (6724 for Class A carriers), should be assigned to the state and interstate jurisdictions using the separations procedures for those accounts. In accordance with Section 36.379(a), the computer expenses associated with message processing expenses are included in the Message Processing Expense category and are assigned to the various classifications of services and allocated in accordance with Section 36.379(b). Thus, the data processing expenses associated with revenue accounting and recorded as message processing expenses in Account 6620 (6621) are to be allocated in accordance with Section 36.379(b).

I hope this explanation clarifies the Commission's accounting and separations procedures. If you have any questions concerning this response, please contact Patricia Shipley of my staff at (202) 632-7500.

Sincerely,

Kenneth P. Moran
Chief, Accounting and Audits Division
Common Carrier Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: March 11, 1988

AMERITECH OPERATING COMPANIES SEEK PERMISSION TO PAY COMMISSIONS ON SALES OF INTERSTATE SERVICES
Pleading Cycle Established

On February 17, 1988 Illinois Bell Telephone Company, Indiana Bell Telephone Company, Inc., Michigan Bell Telephone Company, The Ohio Bell Telephone Company and Wisconsin Bell, Inc. (Ameritech) petitioned for waiver of the prohibition against payment of commissions to sales agents for sale of interstate services. In the *Sales Agency Order*, 98 FCC 2d 943 (1984), the Commission permitted Ameritech to pay commissions to customer premises equipment vendors, including Ameritech's affiliates, for the sale of intrastate basic services. In the *Sales Agency Reconsideration Order*, FCC 85-582 (released November 15, 1985), the Commission also permitted two Bell Operating Companies (BOCs) to pay commissions to agents for services that are physically intrastate but jurisdictionally interstate, and for certain interstate services. Ameritech did not then seek such authority.

In its petition, Ameritech asks that it be allowed to pay commissions to agents for the sale of services that are jurisdictionally interstate but physically intrastate. In addition, it seeks permission to pay commissions for any services that are physically interstate and permitted under the *Modification of Final Judgment*. Ameritech states that business customers seek sophisticated solutions to their needs, and that, if it is to market its services effectively, Ameritech must be able to compensate agents for their sale of services, without regard to the jurisdictional nature of the services. Ameritech cites various private line/special access services and switched data services as examples of the interstate access services for which commissions might be paid.

Parties may file comments on Ameritech's petition no later than March 31, 1988. Replies should be filed by April 12, 1988. Comments should refer to file number AAD 8-1911.

Copies of Ameritech's petition may be obtained from International Transcription Services, Inc., 2100 M Street, NW, Washington, DC 20036, (202) 857-3800. Copies are also available for public inspection in the Accounting and Audits Division public reference room, Room 812, 2000 L Street, NW, Washington, DC 20554.

For further information contact Robert W. Spangler, (202) 632-7500.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of

ORANGE COUNTY-POUGHKEEPSIE LIMITED PARTNERSHIP — File No. 00192-CL-MP-88

For a construction permit to modify existing facilities operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service on Station KNKA 416 at Poughkeepsie Metropolitan Statistical Area

MEMORANDUM OPINION AND ORDER

Adopted: March 2, 1988; Released: March 11, 1988

By the Chief, Mobile Services Division:

1. Orange County-Poughkeepsie Limited Partnership (OCP), the wireline cellular licensee in the Poughkeepsie Metropolitan Statistical Area (MSA), filed an application to modify its authorization. OCP requests authority to increase its authorized Cellular Geographic Service Area (CGSA) to encompass unserved portions of Dutchess County, New York by changing transmitter locations at cell sites in Mt. Beacon and Mt. Hosner.[1] Dutchess County Cellular Telephone Company, Inc. (Dutchess), the non-wireline licensee for the Poughkeepsie MSA, opposes grant of the application.

2. OCP indicates that its proposed amended CGSA will not extend beyond the MSA boundary. However, it states that the 39 dBu contours of the two transmitters at cell sites in Mt. Beacon and Mt. Hosner will extend into the adjacent New York MSA. OCP indicates that the placement of the proposed transmitters near the border of the Orange County-Poughkeepsie New York MSA is necessary to provide sufficient coverage to Interstates 87 and 84, New York 17, and the Taconic State Parkway, which it c' the major commercial and commuting highways n. OCP submitted a letter from the New York ted Partnership, the wireline licensee for the MSA, stating that it had no objection to the 39 asions. It further indicated that the both itself and the New York SMSA Limited Partnership are under the common control of NYNEX Mobile Communications Company.

3. Dutchess contends that the proposed extensions are not *de minimis* and are unjustified. Dutchess claims that 33.7 % of the land area of the cell site in Mt. Beacon and 12.9% of the cell site at Mt. Hosner would extend into the New York MSA. It further avers that the cell site extension at Mt. Beacon is equal to 22.8% of the land area of Dutchess County and that the cell site extension at Mt. Hosner equals 5.2% of the land area of this county. It further claims that 39 dBu contours of this nature are prohibited by *Saco River Cellular Telephone Company*, 2 FCC Rcd 20009 (1987).

4. OCP in opposition argues that Commission precedent and policy permit extensions of 39 dBu contours into adjacent CGSAs where the extension falls within an MSA served by a commonly owned or controlled carrier and the other carrier has consented to the proposal. OCP relies upon *Southern New England Telephone Company*, Mimeo No. 2047, released March 10, 1986 and *Flint Cellular Telephone Company*, Mimeo No. 4760, released May 28, 1986, *modified* Mimeo No. 4939, released June 3, 1986. It further claims that *Saco River*, *supra* is inapplicable to its request.

DISCUSSION

5. An extension of a licensee's authorized CGSA into an area not served by the carrier is generally prohibited, unless that extension is *de minimis*. *See Flint Cellular Telephone Company*, Mimeo No. 4939, released May 28, 1986, *modified* Mimeo No. 3640, released June 3, 1986. However, an extension of the 39 dBu contour into an adjacent MSA is permitted where the carrier requesting the extension receives permission from the corresponding carrier in the adjacent market and where the licensee in the adjacent MSA has CGSA presence in the extension area. *See Bell Atlantic Mobile Systems of Philadelphia*, 2 FCC Rcd 7531 (1987). When a carrier meets this criteria, it is irrelevant whether the non-wire carrier, such as Dutchess has objected to the extension request. *Id.* It is also irrelevant to determine whether or not the extension is *de minimis*, therefore, Saco River, supra is not applicable to these circumstances. Id. OPC has submitted a letter from the New York SMSA Limited Partnership stating it has no objection to OPC's proposed 39 dBu contour extensions into its CGSA. The New York SMSA Limited Partnership, specifically stated that the extensions are necessary to provide continuous service between the New York and Orange-Poughkeepsie CGSAs and "to enhance the potential for intersystem handoffs". Having determined that OPC has meet the above criteria, we will grant OPC's request for a change in the location of its transmitters at the Mt. Beacon and Mt. Hosner cell sites.

6. Accordingly, IT IS ORDERED that the modification application of Orange County-Poughkeepsie Limited Partnership, File No. 00192-CL-MP-88 IS GRANTED.

7. IT IS FURTHER ORDERED that the Petition to Dismiss or Deny filed by Dutchess County Cellular Telephone Company, Inc. IS DENIED.

8. This Order is issued under Section 0.291 of the Rules and is effective upon its release date. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Rules may be filed within 30 days of the date of public notice of this Order. See Section 1.4(b)(2) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

Kevin J. Kelley
Mobile Services Division
Common Carrier Bureau

FOOTNOTE

[1] OPC has also filed a Motion for Expedited Resolution. Based upon our action on its application, that motion is now moot.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of

DANIELS & ASSOCIATES, INC. File No. 24265-CD-P/ML-01-87

For additional facilities
at Station KOE252 on frequencies
454.475, 454.650, and 454.525 MHz
in the Public Land Mobile Service
near Garfield, Utah

MEMORANDUM OPINION AND ORDER

Adopted: March 2, 1988; Released: March 11, 1988

By the Chief, Mobile Services Division:

1. David R. Williams, d/b/a Industrial Communications (Industrial) has filed a Petition to Dismiss as Defective the captioned application. Industrial alleges that the Daniels & Associates, Inc. (Daniels) proposal is electrically mutually exclusive on two of the three frequencies applied for, 454.475 and 454.650 MHz, with facilities which Industrial applied for near Fairfield, Utah. Industrial asserts that Daniels' application was filed on May 15, 1987, well past the 60 day period following the Public Notice of July 2, 1986, announcing Industrial's application. As a result, contends Industrial, Daniels' application does not comply with Section 22.31(b) of the Commission's Rules and is cut off from consideration. Industrial argues that because Daniels combines in one application frequencies that are mutually exclusive with a clear frequency, 454. 525 MHz, the Daniels' application violates Section 22.31 (e) of the Rules,[1] and should be dismissed in its entirety pursuant to Section 22.20 (a)(2).

2. Daniels agrees that its application for frequency 454.475 MHz was untimely filed. However, Daniels asserts that it has corrected the deficiency in its application by filing a minor amendment that deletes its request for frequency 454.475 MHz. Daniels insists that because the amendment was filed prior to the commencement of processing by Commission staff, its correction is consistent with *Moore's Service*, 49 Rad. Reg. 2d (P&F) 917, 924 (1981), and therefore the amendment cures the defect in its application. This amendment, submits Daniels, became effective when it was filed. In addition, Daniels asserts that the Public Notice of July 2, 1986, neither listed frequency 454.650 MHz nor contained information suggesting that there had been an application for any facility other than 454.475 MHz. Daniels contends that because it is essential that a public notice apprise applicants of a specific frequency which is sought, *see Central Mobile Radio Phone Service*, 65 F.C.C. 2d 648, 651 (1977), and the Public Notice in issue did not do so, the normal operation of cut-off procedures should be suspended. Consequently, argues Daniels, frequency 454.650 MHz has not been cut-off.

3. Industrial replies that in *Part 22 Revision*, 95 F.C.C. 2d 769, 798 (1983), *recon. den.* 101 F.C.C. 2d 799 (1985), the Commission provided for an "objective test" in dismissing any application in its entirety that did not conform with Section 22.31(e). The policy, maintains Industrial, has been followed subsequently. *Peconic County Telephone Co., Inc.*, FCC Mimeo 5694, released, July 10, 1986; *Radio Relay Michigan Corp.*, 2 FCC Rcd 3335 (1987). Industrial asserts that the Commission's objective standard of *Part 22 Revision* rather than the standard of *Moore's Service*, *supra*, applies, as Daniels' amendment followed Industrial's petition. Industrial contends that regardless of the omission of the frequency from the Pulic Notice, Daniels' application fatally combined a clear frequency with the frequencies requested by Industrial.

4. After thoroughly considering the pleadings, we will deny Industrial's petition. We find that Daniels' application was defective as filed on May 15, 1987, pursuant to Section 22.31(e). Thus, it was unacceptable for filing and should have been returned.[2] We further find that Daniel's amendment deleting the mutually exclusive frequency, 454.475 MHz, corrected this deficiency, *see Dial - A - Page, Inc.*, 75 FCC 2d 432, 437 (1980), and renders the application newly filed as of July 24, 1987, for the frequencies 454.650 MHz and 454.525 MHz. Pursuant to Section 22.23 of the Rules, an application will be considered to be a newly filed application if it is amended by a major amendment. Under Section 22.23(c)(1), an amendment is major if it results in a substantial change in the engineerng proposal, including but not limited to changes in, or an addition of a radio frequency. The deletion of the mutually exclusive frequency, 454.475 MHz, by Daniels' amendment does constitute such a substantial change, because it changes the application from being unacceptable to acceptable for filing.

5. Industrial's filing for 454.650 MHz was not listed in the Public Notice of July 2, 1986. Because the 454.650 MHz application had not appeared on Public Notice at the time Daniels filed its application, as amended, we assume that Daniels' filed for the 454.650 Mhz without notice of Industrial's application for that frequency. [3] *Public Mobile Service*, 101 F.C.C. 2d 799, 806 (1985). Moreover, given the length of time between the Public Notice of July 2, 1986, and the filing of the Daniels' application, Industrial should have brought to our attention that the Public Notice had omitted 454.650 MHz, which it had applied for. Accordingly, we will permit Daniels to amend the application to sever that portion of its newly filed application for 454.650 MHZ, which is mutually exclusive with Industrial, from the request for 454.525 MHz. *Id.*

6. Industrial's application for 454.650 MHz, File No. 24149-CD-P/L-01-86, was placed on Public Notice, August 12, 1987, correcting Public Notice, PMS-86-40, July 2, 1986. Daniels' application for this frequency and for 454.525 MHz was not listed on Public Notice. Accordingly, because Daniels' application was amended prior to the Public Notice of August 12, 1987, its request for 454.650 MHz is not cut-off. A public notice addressing the mutual exclusivity between the Industrial and Daniels applications on this frequency will be issued. We will also list Daniels' application for 454.525 MHz on public notice at the appropriate time after the release date of this order.

7. Accordingly, IT IS ORDERED That the Petition to Dismiss as Defective filed by David R. Williams d/b/a Industrial Communications, Inc. IS DENIED to the extent indicated above.

8. This order is issued under Section 0.291 of the Commission's Rules and is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Rules may be filed within 30 days of the date of public notice of this order. *See* Section 1.4(b)(2).

FEDERAL COMMUNICATIONS COMMISSION

Kevin J. Kelley
Chief, Mobile Services Division
Common Carrier Bureau

FOOTNOTES

[1] Section 22.31 (e) of the Rules provides:

> An applicant requesting a frequency which is mutually exclusive with another application that has previously been placed on public notice shall not in the same application request additional frequencies which are not mutully exclusive with the first application. Instead, additional frequencies may be applied for in a separate application.

[2] Because the initial application was unacceptable for filing, the Public Notice of May 27, 1987, announcing Daniels' request for the three frequencies has no effect.

[3] As discussed in Public Mobile Radio Service, *supra*, the Daniels' application falls within a limited exception to Section 22.31(e) that provides that an application that is mutually exclusive with an application that has not appeared on public notice will not be considered unacceptable for filing pursuant to Section 22.31(e).

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-89

In re Applications of

KNIGHT COMMUNICATIONS CORP. (hereafter: Knight)	File No. BPH-860828MC
SAGE BROADCASTING CORPORATION OF FAIRHAVEN, MASSACHUSETTS (hereafter: Sage)	File No. BPH-860902MH
COMMUNITY ORIENTED RADIO OF FAIRHAVEN (hereafter: Community)	File No. BPH-860903MA
ARARAT BROADCASTING CORPORATION (hereafter: Ararat)	File No. BPH-860903ME
FAIRHAVEN COMMUNICATIONS SYSTEMS, INC. (hereafter: Systems)	File No. BPH-860903MJ (DISMISSED HEREIN)

For Construction Permit
for a New FM Station
on Channel 296A
in Fairhaven, Massachusetts

HEARING DESIGNATION ORDER

Adopted: February 19, 1988; Released: March 11, 1988

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.[1]

PRELIMINARY MATTERS

2. On September 21, 1987, Systems requested the dismissal of its pending application for Fairhaven, Massachusetts. However, on November 2, 1987, Systems filed an additional amendment indicating that it wished to withdraw its request for voluntary dismissal. This later submission indicated that while two of the parties to the application, Andrea Phillips Roundtree and Diane Harrison, wish to withdraw, Edward F. Perry, Jr., a 60% partner in the application wished to continue with the application. Because no action had been taken by the Commission's staff with respect to the requested dismissal prior to the reciept of the November 2, 1987 letter, both filings will be considered.

3. An examination of the structure of Systems' application revealed that it was filed as a Corporation in the process of formation, and not as a partnership as stated in the November 2, 1987 letter. Therefore, the holdings of the parties were listed in Section II, Item 5(a) both in terms of percent of voting stock and percent of equity investment. While Mr. Perry's holdings represent 60% of the equity investment in the application, he posesses no voting stock and thus none of the controling interest in the application. All of the voting stock, and hence the control of the applicant, was split evenly between Ms. Roundtree and Ms. Harrison.

4. Under 47 C.F.R. § 73.3573(b) a "major change" occurs where an applicant amends the ownership section of its application to reflect a change in the parties to the application, and "the original party or parties to the application do not retain more than 50% ownership interest in the application as originally filed." Such a change requires conferral of a new file number which, pursuant to 47 C.F.R §§ 73.3564(d),V and 73.3573(f), would render the application late-filed under the Commissions "window" processing system and thus would require dismissal of that application. As the Commission has stated on several occasions, only voting interests are cognizable under this rule for determining major changes in ownership.[2]

5. Thus acceptance of Systems' November 2, 1987 letter noting the withdrawal of Ms. Roundtree and Ms. Harrison from the application is tantamount to a withdrawal of 100% of the original ownership from the application and would necessitate the transfer of 100% of the voting stock to Mr. Perry or some new party to the application. As noted above, such a change would require the conferral of a new file number and thus dismissal of the Systems application. Commission precedent provides for the non-acceptance of major amendments which would cause the dismissal of mutually exclusive applications. *See Golden Shores Broadcasting, Inc.*, 2 FCC Rcd 4743 (1987); *Tequesta Television, Inc.*, 2 FCC Rcd 41 (1987), modifying 103 FCC 2d 1182 (Rev. Bd. 1986); *Redwood Television Ministries*, 52 RR 2d 1365 (1982). However, because the intent of the controlling parties to withdraw is made clear from both Systems' September 21, 1987 and November 2, 1987 letters, the Commission will treat both letters, in effect as requests for voluntary dismissal, and will therefore dismiss Systems' application below.

INDIVIDUAL APPLICANTS

6. *Community*. FCC Form 301 requires each applicant for a new broadcast facility to supply, in Section V-B question 10(d), the area and population to be covered by the proposed 1 mV/m contour. Community's application omitted this information. Therefore, within 30 days of the release of this Order, Community will be required to file an amendment with the presiding Administrative Law Judge supplying the omitted information.

OTHER MATTERS

7. *EEO.* Where applicants for a new broadcast station propose to employ five or more full-time employees, 47 C.F.R. § 73.2080 requires those applicants to submit equal employment opportunity (EEO) Programs with their applications. Section VI of FCC Form 301 specifies the use of a five-point format set out in FCC Form 396A. In their applications, Sage and Knight state that they will employ five or more full-time employees. However, while each has submitted an EEO program, both have failed to include, within Part IV, adequate examples of minority and women's organizations, employment services, educational institutions, and publications which will be used to effectuate the EEO programs. Accordingly, these applicants will be required to file amended EEO programs with the presiding Administrative Law Judge within 30 days of the release of this Order, or an appropriate issue will be specified by the Judge.

8. The applicants below have petitioned for leave to amend their applications on the dates shown. The accompanying amendments were filed after the last date for filing minor amendments as of right. Under Section 1.65 of the Commission's Rules, the amendments are accepted for filing. However, an applicant may not improve its comparative position after the time for filing amendments as of right has passed. Therefore, any comparative advantage resulting from the amendments will be disallowed.

APPLICANT	AMENDMENTS
Sage	March 6, 1987; March 11, 1987; April 30, 1987; June 18, 1987 (engineering); July 30, 1987; September 29, 1987; December 18, 1987; January 28, 1988
Knight	September 9, 1987; October 26, 1987; November 16, 1987
Ararat	April 6, 1987

9. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

10. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted, if any.

12. IT IS FURTHER ORDERED, That in light of Systems' request for a voluntary dismissal, its application (File No. BPH-860903MJ) for channel 296A in Fairhaven, Massachusetts IS HEREBY DISMISSED.

13. IT IS FURTHER ORDERED, That within 30 days of the release of this Order, Community shall file, with the presiding Administrative Law Judge, an amendment to Section V-B of its application, supplying the area and population information requested by question 10(d).

14. IT IS FURTHER ORDERED, That applicants Sage and Knight shall file amended EEO programs with the presiding Administrative Law Judge within 30 days of the release of this Order.

15. IT IS FURTHER ORDERED, that the petitions for leave to amend filed by the following applicant ARE GRANTED, and the corresponding amendments ARE ACCEPTED to the extent indicated herein: Sage, Knight, and Ararat.

16. IT IS FURTHER ORDERED, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., N.W., Washington, D.C. 20554.

17. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, not later than **April 1, 1988,** file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

18. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

FOOTNOTES

[1] Applications were also filed by Deborah A. Lavana (File No. BPH-860903MF), and Jeffrey Salkin (File No. BPH-860903MG). However, prior to designation, the Lavana application was dismissed (June 29, 1987), and the Salkin application was returned (September 18, 1986). Neither applicant has filed a timely petition for reconsideration.

[2] *See Processing of Broadcast* Applications, 56 RR 2d 941, 945 (1984); Anax Broadcasting, Inc., 87 FCC 2d 483, 487-88 (1981); Grace Missionary Baptist Church, 80 FCC 2d 330, 336-37 (1980).

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-90

In re applications of

THIEF RIVER RADIO (hereafter Thief River) File No. BPH-860930MB

RITA COLE (hereafter Cole) File No. BPH-861002SY

For Construction Permit for
New FM, Channel 274C1, 102.7 MHz
Thief River Falls, Minnesota

HEARING DESIGNATION ORDER

Adopted: February 19, 1988 Released: March 11, 1988

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. *Thief River.* Dale R. Olmstead, a principal of the applicant, is 100% owner of Olmstead Broadcasting, Inc. and North Country Radio, Inc., the licensees respectively of KKAQ (AM), Thief River Falls, and KKDQ (FM), Fosston, Minnesota. Mr. Olmstead has indicated that in the event construction permit is issued in this proceeding to Thief River, he will divest himself of his ownership of these two stations and will resign as an officer and director of their licensees. Accordingly, an appropriate condition will be specified.

3. In exhibits 1 and 2 of its application, Thief River indicates that Connie J. Olmstead, a principal of the applicant, is the wife of Dale R. Olmstead and that "she does not have any ownership in any broadcast station nor is she an officer or director in any corporation listed above [Olmstead Broadcasting, Inc. and North Country Radio, Inc.]." However, Commission ownership records indicate that Connie J. Olmstead is the secretary of North Country Radio, Inc., the licensee of KKDQ (FM), Fosston, Minnesota. Accordingly, Thief River will be required to file an amendment with the presiding Administrative Law Judge, within 30 days of this Order, which explains this apparent discrepancy.

4. *Other Matters.* The applicant below has petitioned for leave to amend its application on the date shown. The accompanying amendment was filed after the last date for filing minor amendments as of right. Under Section 1.65 of the Commission's Rules, the amendment is accepted for filing. However, an applicant may not improve its comparative position after the time for filing amendments as of right has passed. Therefore, any comparative advantage resulting from the amendment will be disallowed.

APPLICANT	AMENDMENT FILED
Cole	April 6, 1987

5. Data submitted by the applicants indicate there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

6. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted, if either.

8. IT IS FURTHER ORDERED, That in the event a construction permit is awarded in this proceeding to Thief River, Dale R. Olmstead will dispose of his common stock interest in Olmstead Broadcasting, Inc. and North Country Radio, Inc. and will resign as an officer and director of these corporations.

9. IT IS FURTHER ORDERED, That, in accordance with paragraph 3 hereinabove, Thief River will file an explanatory amendment with the presiding Administrative Law Judge, within 30 days of the date of this Order.

10. IT IS FURTHER ORDERED, That the petition for leave to amend filed by the following applicant(s) IS GRANTED, and the corresponding amendment(s) IS ACCEPTED to the extent indicated herein: Cole (April 6, 1987).

11. IT IS FURTHER ORDERED, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., N.W., Washington, D.C. 20554.

12. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, not later than **April 1, 1988,** file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

13. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In re applications of

PEPPER SCHULTZ — **MM DOCKET NO. 83-1206**
Sparks, Nevada — File No. BPH-820519AK

COMSTOCK BROADCASTERS, INC. — **MM DOCKET NO. 83-1207**
Sparks, Nevada — File No. BPH-820628AQ

For Construction Permit

MEMORANDUM OPINION AND ORDER

Adopted: February 29, 1988; Released: March 11, 1988

By the Commission:

1. This matter comes before the Commission for further action concerning a Petition for Reconsideration filed April 8, 1987 by Pepper Schultz. That pleading, in turn, related to an order by the Commission upholding a Review Board decision granting the application of Comstock Broadcasters, Inc. for a new FM station at Sparks, Nevada and denying Schultz's mutually exclusive application. *Pepper Schultz*, 103 FCC 2d 1052 (Rev. Bd. 1986), rev. denied, 2 FCC Rcd 1476 (1987).

I. BACKGROUND

2. The procedural history of this case is as follows. In an initial decision, (now) Deputy Chief Administrative Law Judge James F. Tierney (ALJ) granted Schultz's application, based on his finding that Schultz had a superior proposal for integration of ownership into management. *Pepper Schultz*, FCC 84D-49 (July 30, 1984). The Review Board, however, on its own motion added issues questioning the adequacy of Schultz's existing staffing and financial proposals and remanded the proceeding for further hearings. *Pepper Schultz*, 58 RR 2d 434 (Rev. Bd. 1985). Following remand, Schultz tendered amendments providing new approaches intended to cure any deficiencies in his existing proposals. The ALJ accepted these unopposed amendments and found Schultz qualified. *Pepper Schultz*, 103 FCC 2d 1066 (Admin. L.J. 1985).

3. The Board then reversed the ALJ a second time. *Pepper Schultz*, 103 FCC 2d 1052 (Rev. Bd. 1986). It held that no good cause existed for accepting the curative amendments, primarily because Schultz had lacked diligence in formulating his original proposals and had grossly delayed the proceeding. The Board further held that Schultz's original, unamended staffing and financial proposals were not viable, thereby rendering Schultz unqualified. The Commission denied review of the Board's action. *Pepper Schultz*, 2 FCC Rcd 1476 (1987).

4. Schultz then filed the pending petition for reconsideration. After reviewing the petition, the Commission's General Counsel determined that the submission of further information by the parties would aid the Commission's deliberations. *Pepper Schultz*, FCC 87I-065 (June 29, 1987). Because the Board rejected Schultz's curative amendments which the ALJ had found satisfactory, Schultz argues that he should have been given a further opportunity to show that his original staffing and financial proposals, without amendments, were adequate. Although the present record contains evidence compiled during the hearings before the ALJ regarding Schultz's original proposals, the General Counsel believed it desirable to clarify what evidence Schultz might have offered if he had been given a further opportunity. Moreover, the adequacy of Schultz's proposals as of 1982 might conceivably reflect on the question of whether good cause exists for permitting amendments of those proposals.

II. SUBMISSIONS BY THE PARTIES

5. In response to the General Counsel's order, Schultz filed an evidentiary submission on August 7, 1987, and Comstock replied on August 31, 1987. Schultz contends that his submission demonstrates that his original, unamended staffing and financial proposals were viable.

A. *Staffing Proposal*

6. Schultz states that, during the first few months, the proposed station would operate on a fully automated basis seven days a week, 24 hours a day. However, if necessary, he would operate no less than 12 hours a day, six days a week. He further reports that he would be aided by several friends, who have volunteered to perform technical and other duties when he is absent from the station. Additionally, Schultz states that he would hire paid employees soon after the station begins operation as justified by cash flow and his experience with the station, and that he would devote substantial time to advance time sales to increase his initial advertising revenues. Schultz asserts that his proposal to serve initially as the station's only full time staff represents a demanding but not impossible undertaking, especially given that Schultz is unmarried, has few responsibilities, and is accustomed to working long days. Schultz acknowledges that at one time he planned to use an automatic transmission system monitored by a local telephone answering service-burglar alarm company when he was not present at the station. He concedes that he abandoned this plan when he realized that it would violate a Commission requirement that monitoring must be done by station employees. *Automatic Transmission Systems*, 39 RR 2d 677, 681 (1977).

7. Comstock responds that the proposal described by Schultz contradicts his previous testimony. According to Comstock, Schultz originally did not propose to use volunteer assistance, nor did he propose to rely on advance time sales to facilitate the hiring of paid staff. Comstock contends that Schultz did not formulate these modifications of his original intentions until after the Board took issue with his staffing plans at the first oral argument. Thus, Comstock argues that Schultz cannot honestly characterize this plan as his original, unamended proposal and that, therefore, the plan should not be considered at this juncture. Moreover, Comstock questions whether Schultz's plans to rely on volunteers and preselling are feasible.

8. The pleadings before us raise substantial and material questions of fact which relate to Schultz's qualifications to be licensee and, therefore, should be explored at an evidentiary hearing. First, we are troubled by the seeming discrepancy between Schultz's evidentiary showing, now before us, and the present record. For example, the Board in its remand order found that Schultz had not previously referred to using volunteers to run the station. 58 RR 2d at 437. Moreover, the ALJ's findings in the supplemental initial decision seem to support Comstock's allegation that the proposal set forth in Schultz's submission is not his original plan, but one first formulated in an amendment rejected by the Board. *Pepper Schultz*, 103 FCC 2d at 1067-68. The present record provides no basis on which to resolve this dispute. Accordingly, a further hearing is necessary to decide this substantial and material question of fact. We also find a substantial and material question of fact as to whether the virtual one-man operation of Schultz's proposed commercial FM radio station can be effected. We therefore remand this proceeding for further hearings.

B. ***Financial Proposal***

9. Schultz maintains that at the time he certified his financial qualifications in his application he intended to construct and operate the station with the resources available at the time of the grant. He states that he believed that he could work out a lease-purchase arrangement with an equipment supplier or obtain a bank loan, but that he had not reached any definite agreement on either score. Rather, he asserts that his financial qualifications were demonstrated by the fact that he had sufficient resources on hand to construct and operate the station even without further financial arrangements. The Commission requires applicants to certify that they have sufficient funds to construct the proposed station and operate it for three months. *Revision of Form 301*, 50 RR 2d 381, 382 (1981). In support of this contention, Schultz submits a balance sheet indicating that, at the time he filed his application in 1982, he had available funds of31,542 to meet estimated costs of construction and operation of16,900.

10. Comstock questions several aspects of Schultz's financial proposal. It considers Schultz's listing of costs and funds available as flawed and not credible. Furthermore, Comstock maintains that Schultz's present showing is inconsistent with his prior testimony in which he did not assert the availability of the assets he now claims.

11. We find that the pleadings before us raise substantial and material questions as to Schultz's financial plan. As in the case of Schultz's staffing proposal, we are troubled by the seeming discrepancy between his present showing and the existing record. We note, for instance, that Schultz previously submitted a pleading which stated:

> It is true that Mr. Schultz did not personally own all of the resources needed to construct and operate his proposed station in 1982. However, he believed that he had ready access to all of those resources; as demonstrated by the ease with which he obtained the funds when it became appropriate to do so by virtue of the grant of his application in 1984, his expectation was entirely reasonable.

Opposition to Motion for Enlargment of Issues, filed April 18, 1985 at 2-3. (Schultz was referring to an amendment in which he reported that his brother had recently given him101,000 for the station.) This assertion appears to be contradicted by a statement in Schultz's present submission:

> However, his financial certification was not based on these hopes and beliefs; it was based entirely on the funds and used equipment reasonably available to him at the time, and he has at all times been prepared to go forward with the bare-bones facility upon which his financial certification was predicated should it be necessary to do so.

Submission in Response to Commission Order of Pepper Schultz, filed August 7, 1987 at 5 (emphasis in original deleted). As mentioned, Schultz supports this latter assertion with a balance sheet -- which he did not previously submit, even though he had the opportunity to do so. Additionally, in view of the circumstances in which Schultz submits his listing of funds and costs, Comstock should have an opportunity to test the reliability of these figures.

III. ORDER

12. ACCORDINGLY, IT IS ORDERED, That the Petition for Reconsideration, filed April 8, 1987, by Pepper Schultz IS GRANTED to the extent indicated and IS DENIED in all other respects; and this proceeding IS REMANDED to the Presiding Judge for further evidentiary hearings in accordance with this Memorandum Opinion and Order.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster, III
Acting Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

GEN. Docket No. 86-336

In the Matter of

Inquiry into the Scrambling
of Satellite Television Signals
and Access to those Signals by
Owners of Home Satellite Dish
Antennas

SECOND REPORT
(Proceeding Terminated)

Adopted: February 25, 1988; Released: March 11, 1988

By the Commission: Chairman Patrick issuing a statement.

I. INTRODUCTION

1. Approximately two years ago,[1] programmers began to scramble their satellite video transmissions. While the initial impetus for this action was the desire to prevent commercial theft of program services, scrambling also made possible the development of a market for direct-to-home sales of satellite programming. In the summer of 1986, a Congressional request was made for the Commission and the National Telecommunications and Information Administration to examine the terms and conditions under which satellite programming is being scrambled and offered to home satellite dish (HSD) owners.[2] The Commission issued a *Notice of Inquiry* in General Docket No. 86-336. 51 Fed. Reg. 30,267 (Aug. 25, 1986). After conducting its investigation in cooperation with NTIA, the Commission issued the *Report* in General Docket No. 86-336 approximately one year ago. 2 FCC Rcd. 1669 (1987).

2. The *Report* examined the public interest benefits of scrambling, the development of descrambling equipment, whether the marketplace is generating a *de facto* standard, program distribution and prices, and the legal and policy issues related to the scrambling of the "network feeds" and the "superstations." We concluded that there was no need at that time for government intervention in the HSD market.[3] That market appeared to be developing in a successful way and we saw no avenue by which additional government regulation could improve the situation. Nevertheless, we observed that the industry was in the early stages of its development, and we noted the concerns of some in the HSD industry regarding decoders, program pricing and distribution, and other issues.

3. These considerations led us to direct our staff to submit quarterly progress reports on the status of the industry for one year. We also made a commitment to report to Congress if any remedial action was warranted and to present a final report to Congress one year after adoption of the original report. *Report* at 1702. The Commission's staff prepared progress reports in May and September of 1987, and in January of this year ("First Progress Report", "Second Progress Report" and "Third Progress Report", respectively). This *Second Report* completes our current program of monitoring the HSD industry.

4. The last two years have witnessed substantial progress in the HSD marketplace. The Videocipher II (VC II) decoder has emerged as a *de facto* industry standard. HSD households need acquire only one decoder to receive satellite cable programming. VC II decoders are now widely available, and, as consumers turn to the integrated receiver decoder (IRD), the incremental cost of decoding capacity will fall from395, the current retail price of a standalone VC II unit.

5. Since the *Report* was completed, many additional channels have scrambled their signals, all using the VC II decoding system. Table 1 provides current information on the scrambling status and plans of satellite cable

Table 1

Scrambling Status of Satellite Cable Services
(All services that are scrambled or
testing are using the VC II)

Scrambled Services -- Full-time Addressable	
Viewers Choice1[a]	
Viewers Choice2[a]	
Request TV[b]	
Telstar Channels[b]	
Home Box Office	
Cinemax	
Showtime	
The Movie Channel	
American Exxxtasy	
Tuxxedo	
SelecTV	
Cable News Network	
Headline News	
ESPN	
USA	
CBN	
WGN	
(Chicago-Independent)	
WPIX	Provided by United Video
(New York-Independent)	
KTVT	
(Dallas-Independent)	
WABC	
(New York-ABC)	
WXIA	Provided by Satellite Broadcast Networks
(Atlanta-NBC)	
WBBM	
(Chicago-CBS)	
WOR	Provided by Eastern Microwave
(Secaucus, N.J.-Independent)[c]	

KCNC (Denver-NBC)	
KMGH (Denver-CBS)	
KUSA (Denver-ABC)	Provided by Netlink
KRMA (Denver-PBS)	
KDVR (Denver-Independent)	
KWGN (Denver-Independent)	
WTBS (Atlanta-Independent)	Provided by Tempo

Services That Have Begun Scrambling with the VC II or Have Firm Plans to Do So

Service	Status
MTV VH-1 Nickelodeon	Testing addressable scrambling Full-time addressable for *all* services March 15, 1988
American Movie Classics	Full-time fixed key. Target date for addressable is May 1, 1988
Disney	Addressable in first half of 1988F
Lifetime	Full-time fixed key; addressable testing April 1, 1988; full-time addressable 2-4 weeks later.
Playboy	Full-time addressable March 14, 1988

Others with Scrambling Plans

Arts and Entertainment will scramble, possibly in 1988, no decision on technology yet.

Black Entertainment Television will scramble at some point, probably with VC II.

The Learning Channel - will probably scramble; if so, will use VC II.

The Weather Channel - will probably scramble with the VC II in 1988.

No Scrambling Plans

Tempo	Nashville Network	C-SPAN I	Bravo
Discovery Channel	Financial News Network	Nostalgia	

Notes

[a] pay per view; each week, one of the two (the one with the more popular movie) available to HSD subscribers to Showtime/The Movie Channel

[b] pay per view; not currently available to HSD households

[c] marketed to HSD households by United Video and Tempo

programmers. As the number of services with scrambled signals has increased, more and more discounted program packages have come onto the market. (Virtually all scrambled services also are available *a la carte*.) These packages are offered by programmers, cable operators, and a third party packager (*i. e.*, an entity that is neither a programmer nor a cable operator). Some manufacturers offer promotional program packages with the purchase of their equipment. Additionally, programming clearinghouses have developed. They are primarily equipment distributors who buy subscriptions to various services in bulk and take advantage of the sales incentive plans (in essence, commissions) offered by the premium programmers in particular. This allows them to put together packages at rates below the *a la carte* prices of the components of the package, and to offer "one-stop shopping" to customers.

6. HSD households currently have access to a wide variety of programming. Many satellite services are unscrambled and may be received without violating federal law.[4] Packages of scrambled services are available from a variety of sources at prices comparable to or below those paid by cable subscribers. Additional options are likely to become available as the HSD market continues to mature. We review below the allegation that cable operators are exercising market power to force programmers to maintain HSD prices at artificially high levels, in order to head off HSD competition to cable distribution. The pattern of prices observed in the cable and HSD markets appears susceptible to reasonable explanation that does not include significant market power on the part of cable operators.[5]

7. These positive developments have occurred without government intervention. Market forces pushed the industry to a *de facto* scrambling standard. This provides consumers with the ability to receive all satellite cable services via a single decoder, while maintaining the incentives for innovation that may bring higher-quality and/or lower-priced scrambling equipment in the future. General Instrument Corporation (GIC), owner of the VC II technology, has, pursuant to market profit incentives, licensed a second source manufacturer for the basic VC II module, and licensed over a dozen firms to use the module to produce IRDs. While the industry suffered a decoder shortage in the spring and summer of 1987, GIC responded to it in the manner that for-profit firms normally do--by significantly increasing its production capacity. The shortage now appears to be over.

8. Market incentives are also spurring the industry (both GIC and the programmers--who lose subscription revenues) to take private action against "piracy"--the use of altered decoders to descramble satellite programming without payment. Piracy is the biggest single problem facing the industry today. In this area, there *is* a role for the government to play.

9. Property rights in goods and services sold are an important prerequisite for markets to function well. For that reason, it is appropriate to note that theft of satellite program services is covered by the criminal penalties of Section 705 of the Communications Act, as well as subject to its civil remedies. Federal authorities, *i. e.*, the Department of Justice and the FBI, enforce the criminal provisions of the law. There are dozens of ongoing investigations, and several raids have been conducted on the premises of suspected pirates, but no indictments have yet been secured.

10. Unchecked piracy poses a severe threat to HSD programming distribution. We therefore believe that it is important to enforce the criminal provisions of Section 705. Indeed, the Congress may wish to consider increasing the penalties now contained in that section.

11. Our *Report* found that scrambling protects programmers from commercial theft of their services and allows them to recover compensation from all who view their copyrighted product. This mechanism is important for both premium and basic cable channels, since the basic services rely to a significant extent on subscription fees to finance their program acquisition and production activities. Recovering compensation from *all* viewers of copyrighted video product is not only a question of equity. A regime in which HSD households subscribe to programming also enhances efficiency, since those households are provided with the means by which they can convey their preferences to programmers and can acquire the services that they desire. By maintaining the incentives to produce programming, scrambling serves the public interest.

12. With respect to the provision of broadcast programming via satellite to HSDs, certain legal and policy questions remain unresolved. It is not clear whether the cable compulsory license applies to HSD viewing. The legal questions are questions of copyright law. They are before the courts and the Congress. We summarize below developments in this area, with emphasis on the evolution of voluntary market arrangements to bring network service to HSD households that now lack it, and on the importance, from a communications policy point of view, of the network-affiliate distribution system.

13. We continue to believe that government regulatory intervention in the HSD market is not needed. This does *not* mean that most or all market participants are satisfied with their current positions. That issue is not before the Commission. In fact, we know that most participants are dissatisfied with some aspects of the market. It *does* mean that some decisions and adjustments--such as the choice of a scrambling standard and the expansion of decoder supply--are, in this case, better accomplished by market forces than by regulation. It means that when programming is widely available from multiple sources, we see no case for regulatory intervention to increase the number of distributors *per se*. We do not at this point rule out the possibility that cable operators could be exercising market power to maintain some HSD programming prices at artificially high levels. We simply note that our investigation disclosed no persuasive evidence of the exercise of such market power. Should such power exist, it could be addressed through antitrust enforcement. We also note that price regulation, including indirect price regulation that proscribes "discrimination" among alternative distributors, has serious procedural problems, and may well not be effective in dealing with any underlying market power that may be present.

14. The remainder of this *Second Report* is organized as follows. Section II discusses VC II issues and Section III reviews program pricing and distribution. Access of HSD households to program services is considered in Section IV, and Section V contains brief conclusions. The *Second Report* is an analysis and overview of HSD market developments during the last year. It does not contain all of the detailed information collected by Commission staff in its monitoring of the HSD industry. That material may be found in the three progress reports referred to above, which should be associated with this document.

II. VIDEOCIPHER II ISSUES

15. Three major issues have arisen with respect to the VC II decoder: standards, supply, and piracy. While the first two have been resolved, piracy remains a major concern. It is probably the biggest single problem facing the HSD industry today.

Scrambling Standards

16. Our initial *Report* analyzed the question of whether the public interest would be served by a government-mandated scrambling standard. We concluded that a government-set standard was not only unnecessary but undesirable. Our judgment that the marketplace has settled on the VC II as a *de facto* standard has been reinforced by events since the *Report* was issued. A large number of satellite cable programmers have chosen the VC II system and virtually all of them have begun scrambling. The others are scheduled to start full-time addressable scrambling in the near future. (See table 1 above.) Those committed to the VC II include almost all of the most popular services. Some services do not plan to scramble their signals, but *no American satellite cable programmer has chosen or is publicly considering an alternative technology*. Thus HSD owners are not in the position of having to purchase multiple decoders.

17. We found that a mandated standard would also limit the incentives to develop improvements in the technology. The need to secure government approval for a revision in the standard, in the face of likely opposition from entrenched partisans of the status quo, would likely discourage potential innovators. On the other hand, programmers and equipment manufacturers are unlikely to alienate customers and distributors by capriciously changing technologies in such a way as to obsolete existing equipment. Improvements are likely to be compatible with the original system and/or gradual, so that any incompatible equipment may be amortized. This does not rule out, nor should it, the chance of a quantum leap in technology, leading to drastically improved quality or reduced cost.

Decoder Supply

18. GIC holds patents on the VC II technology. It manufactures VC II modules, which it uses to produce standalone decoders and integrated receiver decoders (IRDs) for consumer use. An IRD is a satellite receiver with built-in decoding capacity. GIC has licensed one additional firm--Channel Master (CM)-- to build the VC II module. At least 13 firms have licenses to produce IRDs using modules supplied by GIC or CM. GIC is the only producer of standalone decoders, but it has an OEM (original equipment manufacturer) plan under which it sells bulk quantities of standalone decoders to other manufacturers. GIC is also the sole manufacturer of commercial VC II units--those needed by cable systems, SMATV systems, hotels, and other business clients of programmers to decode scrambled transmissions.

19. There was a serious shortage of decoders--consumer standalone, commercial, and modules for IRDs--in the spring and summer of 1987. That shortage is now apparently over. A shortage is simply a situation in which the quantity demanded of an item is greater than the quantity supplied at the going price. GIC, as the patent holder and primary manufacturer, had strong economic incentives to respond to the shortage by increasing supply, and that is exactly what it did.

20. In April of 1987, GIC announced that it was investing in substantial new facilities that would increase its production capacity to 100,000 modules per month by the end of September 1987. That capacity expansion was successfully completed. GIC's actual shipments in September (the last month for which GIC made those figures public) were 73.000 units, compared to roughly 30.000 units in March of 1987. GIC also agreed to allow CM, the second source manufacturer, to sell modules on the open market. CM's license had required it to sell all of its module production to GIC until a certain total production level was achieved. GIC accelerated the schedule for direct sales. CM's entire capacity, currently 30,000 modules per month, is now available for open market sales. CM is selling modules on the open market at this point, but, like GIC, it has some excess capacity.

21. As of early January 1988, there were 300.000 authorized consumer VC II decoders. GIC no longer announces the cumulative total of units shipped. The latest available figure is 504,211 as of the end of September 1987.[6] The decoder shortage and its consequences were analyzed in detail in the progress reports.[7] The key analytic points with respect to that shortage are the following. First, temporary shortages, to which producers respond by expanding supply, are a relatively common marketplace phenomenon. Second, while there may be difficulties during the adjustment period, there is generally no reason to believe that government intervention would alleviate such shortages faster than market responses do.

22. The standalone VC II decoder has sold since it was first marketed at a suggested retail price of395.[8] A few programmers sell decoders for a lower price to subscribers to their program services. Some have expressed disappointment at the magnitude of the price and the fact that it has not fallen. We have no basis to conclude that the decoder price is "too high." The VC II is protected by patents, which confer on GIC a legal "temporary monopoly." A leading equipment manufacturer/distributor which is a vigorous rival of GIC and would like a license to produce standalone VC II decoders, has estimated that a decoder could be produced to retail for 300. Without information on the allowances made for recovery of research and development funds, marketing, and anti-piracy activities, it would be difficult to evaluate this estimate.

23. In any event, the increasing popularity of the IRD is a more important consideration governing the price of decoding capacity. Most observers, including those critical of GIC, expect that within 18 months or less the demand for standalone units will become negligible, as consumers switch to the IRD. GIC sells the VC II module to manufacturers for150. It estimates that the added manufacturer costs for inserting the module are 25 per unit. Thus, the incremental cost of decoding capacity to the IRD buyer is175 plus any manufacturer and distributor markup. Depending on the size of the order and other factors, CM apparently offers modules at prices slightly below those of GIC. It appears, then, that price reductions for decoding capacity are most likely to come via increased use of IRDs.

Piracy

24. VC II piracy refers to the decoding of scrambled programming without the authorization of the programmer and without payment for the programming. This is accomplished by altering legitimate decoders with illicit chips. Piracy (a term that has gained currency in the industry, although "theft of services" is probably a better description of this activity) is the single most important problem facing the HSD industry. If it is not solved, programmers will be unable to obtain payment from many HSD viewers of their copyrighted material and their incentives to serve the HSD market will be correspondingly weakened. This could lead programmers to adopt a more secure (and more expensive) encryption system. It is likely that cable operators would absorb the cost of more expensive decoders but the average HSD household probably would not be able to do so. (The Videocipher I, predecessor of the VC II, is a more technically sophisticated system. Videocipher I decoders were to have had a retail price of3500. *Report* at para 29.) Unchecked piracy could therefore halt satellite-to-home program distribution.

25. The pirate chips now being distributed all apparently make use of a procedure known as "cloning."[9] In this case, a "master" decoder is legally authorized to receive all scrambled services (by payment of regular subscription fees to the programmers). Then, information on the "master" decoder's authorization is extracted. That information is programmed into pirate chips that are then sold. Buyers of the pirate chips can then attach them to *their* decoders, and those decoders will be authorized to receive all services for which the "master" decoder has a current subscription. If GIC or law enforcement officials find the master and it is deauthorized, all of the clones lose service.

26. GIC has taken a variety of measures to combat piracy. It has redesigned the VC II module to make it physically harder to alter (by coating key components with epoxy) and revised the module's software. A new decoding chip is under development, which makes use of very large scale integration (VLSI) techniques. This chip will include all of the secure processes within it. The current module design requires that information relating to the secure processes be transmitted electronically to certain separate chips within the module. These chips can be replaced with fairly standard components that, when suitably programmed, enable pirates to extract information regarding the secure processes. This is the basis for the cloning procedure. The new VLSI chip will eliminate these transmissions of information and will itself be extremely hard to "read." GIC has also undertaken a series of electronic countermeasures (ECM), which consist of deauthorizing decoders that GIC has reason to believe have been altered.[10]

27. Various legal actions against piracy are also underway. VC II piracy constitutes a violation of the prohibition on unauthorized reception of radio communications that is contained in Section 705 of the Communications Act (codified at 47 U.S.C. 605). The Act provides both civil remedies and criminal penalties for violations. GIC has three civil suits underway and has announced its intention to initiate more. Criminal actions under Section 705 are prosecuted by the Department of Justice, through local United States Attorneys. Although no indictments have been handed down yet, a large number of investigations are in progress. GIC is currently aware of 37 federal and two other criminal investigations in progress around the country.[11] Since investigatory agencies frequently seek technical assistance from GIC in these matters, it is likely that GIC is aware of most if not all of the investigations in progress. Federal investigations are generally handled by

the FBI, frequently in concert with local authorities. The U.S. Customs Service and the U.S. Bureau of Alcohol, Tobacco, and Firearms are also involved in some cases.

28. Several of the investigations have included raids by law enforcement authories on the premises of suspected pirates. For example, in late January, FBI agents conducted separate raids in two Oregon towns. A raid was conducted on December 22, 1987 in Hannibal, Missouri by the FBI, along with state and local law enforcement personnel. On December 23, 1987, agents of the U.S. Customs Service, assisted by the U.S. Bureau of Alcohol, Tobacco and Firearms and state authorities, raided a Brundidge, Alabama satellite equipment dealer. In addition, on at least three occasions, the Customs Service has seized VC II equipment about to be exported to Mexico. These seizures were made because export of the VC II is restricted by federal law.[12] However, GIC has been granted permission to examine the seized material for evidence of piracy in two cases and has requested such permission in the third.

29. In the fall of 1987, the SBCA formed an anti-piracy task force, with the cooperation of the Motion Picture Association of America (MPAA). The task force held a series of meetings in December of 1987 to formulate a strengthened industry anti-piracy campaign. One development that apparently impressed the attendees was GIC's frankness in admitting the scope of the piracy problem. Some saw this as a change by GIC from an earlier stance. GIC's acknowledgement that no scrambling system (particularly an inexpensive one such as the VC II) can be absolutely secure was seen as particularly significant.

30. The plan of action that came out of these meetings has three components. The first is a continuing program of ECM by GIC. GIC is also reviewing the internal security at all VC II manufacturing and design sites. The second component is a public relations campaign to inform consumers and dealers about the penalties for piracy and about actions taken against pirates. It will include an information kit to be distributed to dealers, with sample advertisements that could be run locally, suggestions on attracting local press coverage, and instructions on how to report suspected pirates. Also telephone "hot lines" have been set up for reporting pirate activity.[13]

31. Law enforcement is the third component of the plan. The range of such activities has been described above. The industry is clearly eager for additional efforts by federal authorities to enforce Section 705. In particular, it is felt that criminal indictments (and convictions) are a key step in the anti-piracy struggle. The United States Attorneys have limited resources available and a wide range of law enforcement activities. Major felonies receive a higher priority than VC II piracy. While it is not our place to advise the Department of Justice on the allocation of enforcement resources, we wish to reiterate our judgment that VC II piracy is deplorable and a serious matter. As we noted above, unchecked piracy would threaten the very viability of HSD program distribution. While an adequate legal prohibition is in place, if the Congress wished to underline the importance of stopping piracy, it might wish to consider raising the relatively modest criminal penalties currently in Section 705.[14]

32. For its part, GIC has been trying to reduce the cost to law enforcement agencies of bringing piracy cases. The strategy is to present the authorities with complete information on the activities of suspected pirates. To accomplish this, GIC has augmented its own field investigative staff. The MPAA will also make some of its field staff available for VC II piracy investigations.

33. At this point, it is difficult to evaluate GIC's anti-piracy measures and those of the rest of the industry. We cannot assess whether the magnitude of the effort is optimal.[15] However, it is clear that strong market incentives are at work to promote private anti-piracy activities. GIC has invested millions of dollars in the VC II scrambling system. If GIC cannot maintain a level of security satisfactory to the programmers, they will not use it anymore. If programmers turned to another system, GIC would suffer substantial losses. In the short run, piracy may increase decoder demand (since currently would-be pirates need a legitimate decoder), but this short-term benefit is almost certainly far outweighed by the long run losses GIC would incur if the system were to be destroyed.

III. PROGRAMDISTRIBUTION AND PRICING

34. During the past year, a wide variety of discounted program packages have become available to HSD households. (See "Third Progress Report" at 7-16.) Many of them are sold on a nationwide basis, and may be ordered via toll free telephone numbers. Thus, consumers who wish to subscribe to satellite program services have no trouble doing so.

35. Prices for HSD program packages are comparable to or below cable subscriber rates. By this admittedly limited standard, HSD rates are not unreasonable. With respect to two important segments of the program market--premium services and superstations--structural factors also support the conclusion that HSD prices are reasonable. In the case of premium services, the "big ticket" items of the satellite programming market, rivalry between satellite cable programmers has been particularly vigorous. Furthermore, the satellite cable programmers--HBO and Showtime--face competition from a non-cable premium channel and from cassette rentals. Under the current regime, entry into superstation distribution is extremely easy. Established superstation distributors not only compete with each other but also are constrained by potential entry.

36. Some have suggested that cable multiple system operators have exercised market power to force programmers to keep HSD wholesale rates artificially high. The purpose, it is argued, is to limit competition to cable distribution. Such allegations are made primarily with respect to basic cable services. Our investigation revealed no specific evidence of the exercise of cable market power in the HSD programming market. Moreover, it appears that the observed pricing pattern could also be explained by efficiency factors. These and other considerations, detailed below, lead us to recommend against direct or indirect government regulation of HSD program prices.

37. These conclusions are discussed in detail in the remainder of this section. We first list some illustrative HSD program packages and prices, drawn from the larger compilation in the "Third Progress Report." Then we summarize the available data on average cable subscriber rates, for comparison purposes. Next we assess the competitiveness of HSD program distribution and pricing and we examine the allegations of cable market power.

HSD Program Packages and Prices

38. Among the more comprehensive package offerings are those of Showtime, Newchannels, Netlink, Satellite Source, and the National Rural Telecommunications Cooperative (NRTC). Showtime, a programmer, offers a package of two premium and 12 basic services for$20 per month on an annual basis. The premium services are Showtime and The Movie Channel. The basic services are CNN, Headline News, ESPN, USA, MTV, VH-1, Nickelodeon, Lifetime, The Discovery Channel, The Learning Channel, and The Nashville Network. All but the last three are scrambled or will be within a few months. Showtime offers its basic package with one premium service for$16 per month on an annual basis. These packages are available nationwide.

39. Newchannels is a cable multiple system operator (MSO),[16] with rights to sell to HSD households within its franchise area and adjacent counties.[17] It offers packages of 14 basic and one or two premium services for monthly rates of$16 and$24, respectively. The premium services available are HBO, Cinemax, Showtime, and The Movie Channel. The basic services include five superstations--WTBS and the "Superstar Connection" (WGN, WPIX, KTVT, and WOR), plus CNN, Headline News, ESPN, CBN, MTV, VH-1, Nickelodeon, and Lifetime. All are scrambled or will be soon.

40. Netlink[18] offers a package of programming in cooperation with cable systems around the country. It includes Netlink's six uplinked broadcast stations,[19] plus CBN, USA, ESPN, WTBS, WOR, CNN, and Headline News. The participating cable systems obtain the rights to the last seven services,[20] and set the retail price for the 13-channel package. Netlink anticipates that retail prices will range from$11 to$15 per month. Netlink also plans to market HBO/Cinemax and Showtime/The Movie Channel to HSD households, again based on rights acquired by participating cable operators and at retail rates set by the operators. It estimates that these rates will range from$6.50 to$10 per month.

41. Satellite Source is a satellite equipment distributor that also functions as a clearinghouse for programming. (See "Third Progress Report" at 14-15 for a discussion of clearinghouses.) It currently offers a package of 10 basic services plus HBO and Cinemax for$22.42 per month on an annual basis. The basic services, all of which are now scrambled, include CNN, Headline News, ESPN, USA, CBN, WTBS, and the four independent stations in the Superstar Connection. The package of basic services is also offered separately for$9.99 per month on an annual basis.

42. NRTC's "Basic Tier" of service includes eight channels--CNN, Headline News, CBN, ESPN, and the four independent stations in the Superstar Connection. The suggested retail price is$9.95 per month. The Basic Tier plus PrimeTime 24 (a package of three network affiliates offered by Satellite Broadcast Networks--see table 1) carries a suggested retail price of$13.95 per month. NRTC also markets SelecTV, a premium movie channel, at $8.95 per month.

Average Cable Subscriber Rates

43. Some data on average cable subscriber rates were presented in the progress reports. (See "Second Progress Report" at 13, note 8; and "Third Progress Report at 16, note 14.) According to the *Pay TV Newsletter*, in 1986 basic cable service rates averaged$11.09 per month, while the average for one pay service was$10.31. Thus,$21.40 is the average monthly rate for basic plus one pay service. An April 1987 survey of 25 cable systems in *Multichannel News* lists an average basic rate of$13.12 per month, with basic plus one pay service averaging$23.80 (with HBO) or$23.37 (with Showtime) per month. The National Cable Television Association has issued a survey with information on cable rates as of June 1987. This source lists average basic cable rates of$13.11 per month. The monthly average for basic service plus HBO is$23.77. The corresponding figure with Showtime is $23.53.

44. The K-Sat Army has conducted a survey of rates in 57 cable systems around the country and compared them with its calculation of HSD rates for comparable service. This survey, which also includes a comparison of certain equipment maintenance and installation costs, lists monthly cable programming costs of$44.77 and HSD programming costs of $55.87.[21] In each case, the figure is an average of 57 individual monthly fees for packages of program services.

45. The K-SAT survey collects information on monthly rates for basic cable service, HBO, Showtime (or Cinemax if Showtime is not available), the Disney Channel, and "adult" programming. In some cases, one or both of the latter two are unavailable on cable. Services not available on a cable system are not included in the corresponding HSD charge. K-SAT's version of HSD basic service includes five superstations, CNN, Headline News, ESPN, CBN, MTV, and some broadcast network service.

46. There are several important flaws in the K-SAT HSD price estimation methodology which undermine the validity of the results. First, the calculations overestimate HSD programming costs because they do not make use of the lowest priced packages available nationwide. For example, HBO, Cinemax, and all of the basic services on K-Sat's list other than broadcast network stations can be had for$24.08 per month on an annual basis. HBO, Showtime, and those basic services can be had for$31.04 per month on an annual basis. Yet K-SAT's average rate for HBO and Showtime or Cinemax plus these basic services is$35.38 per month.[22]

47. K-SAT also didn't always use the least-cost package of network services. They used SBN, which costs$4.16 per month. However, in areas without off-air or cable service, Netlink offers its network stations for 2.00 per month (see below.) Furthermore, when cable systems in the sample offered more than one affiliate of each network, K-SAT added in a second SBN charge on the HSD side, even though it represented no additional service.[23] On the other hand, K-SAT's HSD complement of five superstations is more than is available on most cable systems.

48. The Disney Channel is not yet scrambled and is currently available to HSD households without charge. Disney has not yet announced the HSD subscription rate that it will use after scrambling. However, by all accounts, it will be well below the$13.20 per month that K-SAT imputes to Disney. The Disney Channel comparison alone accounts for$3.33 of K-SAT's 11.40 difference in cable and HSD programming rates.

49. Although adult programming was not available on most of the cable systems in the sample, it accounts for$1.08 of the difference in average monthly programming rates averaged over the full sample of 57 observations. This too is an overestimate. K-SAT's HSD comparison included rates as high as$30.00 per month for American Exxxtasy, a service that is not generally available to cable subscribers, and is considerably more "explicit" than the

adult channels on cable. The Playboy Channel, which is probably typical of adult cable offerings, is currently unscrambled and available free to HSD households. When it does scramble, it will be sold through Showtime for 10.00 per month on an annual basis. If purchased with Showtime and its basic services package, Playboy's effective price on an annual basis will be 5.00 per month.

50. Thus, with appropriate adjustments, K-SAT's program price survey is not inconsistent with the other evidence on HSD and cable subscriber rates cited above. HSD subscribers can purchase programming at rates comparable to or below those paid by cable subscribers. Furthermore, considering the large number of unscrambled satellite cable channels available to HSDs (see note 4 above), and the limited channel capacity of many cable systems,[24] in many cases the HSD subscriber is likely to get more service.

The Competitiveness of HSD Program Distribution and Pricing

51. The information summarized above and the material on programming availability in the progress reports indicate that programming is widely available from alternative sources at prices comparable to or below cable subscriber rates. Most program packagers sell via toll free telephone number. Consumers who wish to subscribe to satellite program services have no trouble doing so. This, plus the relatively small universe of potential subscribers – 300,000 authorized decoders as of early January, 1988 and, 1.8 million HSDs installed[25] -- suggests that the industry does not have an inadequate number of distributors. The comparablity of HSD and cable subscriber rates for programming is an imprecise indicator of price competitiveness. There is, however, some structural evidence of competition in program supply. After examining that, we consider some underlying supply and demand factors that influence cable and HSD prices. Some of them imply HSD rates above cable subscriber rates and some imply HSD rates below those for cable subscribers. We next discuss the allegations of cable market power. While we cannot conclusively reject those allegations, we find that the case for government price regulation is weak. Such regulation would, at best, address a symptom of whatever cable market power might be present.

52. *Structural Evidence of Price Competition.* The operation of competitive forces appears clearest in the case of premium services and superstations. There are multiple providers of premium service, and the content of their channels is similar--primarily movies. The two major providers of premium service to the cable and HSD markets each operate two channels. HBO and Cinemax are owned by Time Inc.; Showtime and The Movie Channel are owned by Viacom. For almost two years, these two have been competing for the patronage of the HSD customer. Their rivalry has featured financial incentives to satellite equipment dealers and distributors to sell program subscriptions, and a series of reductions in subscription rates, particularly annual rates. In addition, HBO and Showtime face competition from SelecTV, a non-cable movie service. Industry sources estimate SelecTV's share of HSD premium channel subscriptions at 15-25 percent.[26] Furthermore, the premium services face competition from home video, *i. e*, cassette rentals. These considerations suggest that premium channels are provided under conditions of reasonable competition. No evidence has come to our attention that would suggest that the unwillingness of HBO and Showtime to appoint additional distributors is an anti-competitive practice.

53. Superstations are among the most popular basic sevices, and entry into the superstation business is relatively easy. Currently, most superstation carriers are acting as if the cable compulsory license applies to HSD sales. With the exception of one distributor of network stations (see the discussion of SBN below), there has been no legal challenge to such sales. If this regime continues, it would appear that, at least for independent stations, *anyoneany* television broadcast station and turn it into a superstation, without the station's permission.[27] The superstation business is strictly a subscription business--the carriers receive fees from cable system or HSD customers but no payment or advertising revenues from the broadcast station.

54. Recent entrants into the superstation business include SBN, with a three-channel package, and Netlink, which offers a six-channel package. These firms are primarily in the business of serving HSD households, with only limited service to cable systems.[28] Available information on cable circulation of superstations suggests that they may be able to survive with relatively low subscriber counts. While WTBS and WGN reach 41.6 and 23.2 million cable subscribers, respectively, WOR reaches 9.6 million, WPIX reaches 8 million, and KTVT currently reaches only 2.8 million subscribers. There are currently 41.8 million basic cable households in the country.[29] Thus, potential entry seems to be a factor constraining superstation carriers in a way that it is not for, say, ESPN. Since massive cable carriage is not needed for superstation survival, cable MSOs, either individually or in concert, would have limited scope for exercising whatever market power they may have *vis a vis* superstations.

55. *A Comparison of HSD and Cable Subscriber Rates.* The purpose of comparing cable and HSD retail aubscriber rates is to make a rough check of the reasonableness of HSD rates. Our examination of the relevant supply and demand conditions suggests some factors that imply the cable rate should be lower than the HSD rate and some that suggest that the cable rate should be higher than the HSD rate.[30] On the supply side, it appears that HSD customers are more expensive to serve. Programmers must pay the costs of the computer authorization center.[31] (Although cable systems' decoders also need authorization, the bulk of authorizations are for individual HSD consumer units.) Also, the geographic dispersion and small total number of HSD households suggest that marketing and advertising costs are higher for HSDs. Certainly the fixed costs of these activities are spread over fewer potential HSD than cable customers. On the other hand, HSD subscribers own their reception equipment, while cable subscribers are served by distribution plant (coaxial cable, *etc*.) owned by the cable operator. Hence, cable rates include a component for amortizing distribution plant while HSD rates do not.[32] On the demand side, if HSD households are predominantly in areas with fewer broadcast television alternatives than are available to the average cable subscriber, their willingness to pay for basic services may be higher. Program services need to recover the full cost of their programming from their subscribers (and advertisers). Once the program rights are purchased, that cost is fixed and it will generally not be economically efficient to recover an equal share of that cost from each subscriber. It is not clear whether the net of these effects leads to lower HSD rates.

56. In summary, cable and HSD subscriber rates are comparable. There are factors that, taken individually, could support an inference that cable rates should be lower than HSD rates. Other factors, taken individually, could support an inference that HSD rates should be higher than cable rates. In the absence of other specific information, these factors suggests that HSD rates are not substantially out of line.

57. *Allegations of Cable Market Power.* Some parties assert that cable multiple system operators are exercising market power over programmers, compelling them to keep HSD program prices artificially high. Those who make this claim also contend that third-party packagers and programming clearinghouses must pay higher wholesale prices to programmers than the big cable operators pay when buying programming for their cable subscribers. NRTC cites its own experience to support this contention.[33]

58. Two factors mentioned above in connection with retail rates suggest that HSD wholesale rates might legitimately be higher than cable rates. First, programmers must support the computer authorization center primarily for HSD sales. Second, programmers' costs of advertising and promotion to the HSD market may be higher. This could be due to geographic dispersion of HSD households and the smaller universe of potential subscribers. The latter factor means that fixed costs are spread over a small number of potential subscribers and makes it likely that, in promotion, more potential intermediaries --dealers, distributors, etc. -- must be dealt with per potential subscriber.[34]

59. Programmers customarily give volume discounts to purchasers of large numbers of subscriptions. This practice probably has two purposes. First, it may reflect slightly lower transactions costs per subscriber (billing, record-keeping, customer representation, *etc.*) when a single customer provides a large number of subscribers. Second, it may be a technique for encouraging extra marketing effort on the part of the retailers of the programmers' product, mostly cable operators at this point. There are now 27.8 million households that are passed by cable but do not subscribe to basic service.[35] They must be considered an important target group for programmers seeking new subscribers. Rewarding cable operators with lower wholesale prices for new subscribers or increased penetration appears to be a rational and efficient procedure.

60. Thus, there appear to be possible efficiency explanations for some differences in wholesale prices between cable and HSD distributors, particularly at this stage of the HSD market's development, when the universe of potential customers is so small (slightly more than 300,000 authorized decoders and 1.8 million HSDs installed). Nevertheless, we cannot conclusively resent the cable market power hypothesis. The available information, particularly regarding basic services, does not contradict it.[36] However, no specific persuasive evidence of such market power has come to our attention in this investigation.

61. Cable market power is not the primary subject of this inquiry. The Department of Justice has an ongoing investigation of the provision of satellite programming to cable-competitive distribution systems such as HSDs, SMATV, and MMDS. In Congressional testimony, a Justice Department official indicated that "the Department views satellite-delivered video programming as an important industry," and that it intends to "continue monitoring this industry closely, and will take any enforcement action we believe necessary to protect consumers from anticompetitive activity."[37] This, and the following considerations weigh against the imposition of HSD program price regulation. Such regulation may have significant administrative costs. It may also have the unintended effect of reducing the efficiency of HSD distribution. Furthermore, it is not clear that HSD price regulation, be it direct or indirect (*e. g.*, a prohibition of "discrimination" by programmers among alternative distributors), will be effective in checking whatever underlying cable market power that may be present. Price regulation can only address a manifestation of market power. For that reason, measures to allow entry by new competitors are likely to be more efficacious than price regulation in dealing with market power.

HSD Household Access to Programming

62. HSD households have access to virtually every satellite-delivered program service, but important questions remain unresolved with respect to the provision of television broadcast programming to those households. With minor exceptions, every scrambled satellite cable channel (*e. g.*, HBO, CNN, ESPN, *etc.*) is being marketed to HSDs.[38] Programmers that have not scrambled their signals yet but intend to do so also plan to market them to HSD households.[39] Unscrambled satellite cable services are also available to those households.[40] All of these services are provided to cable systems, HSD households, and sometimes other customers, pursuant to exhibition rights that the programmers have obtained from those who own the programming.

63. Satellites can also be used to relay broadcast program material, but those transmissions--whether they be "superstations" or "network feeds"--have a different status. The term "superstation" has come to mean a television broadcast station whose signal has been uplinked by an independent carrier and retransmitted via satellite to subscribers, primarily cable systems. Historically, superstations have been independent television stations, but within the last two years, carriers have begun to uplink the signals of network stations as well. Superstations are now widely available to HSD households, but there is some controversy regarding the status of HSD sales under copyright law.

64. There are thus two ways in which satellite transmissions could, in principle, be used to extend the reach of the three commercial networks to unserved areas. As part of our analysis of the HSD programming market, we sought information on the extent of these "white areas," *i. e.*, areas without local network service off-air or via cable. Precise data on the extent of white areas are unavailable. While estimates vary, the consensus appears to be that 800,000 to 1 million households are in these areas.[41] This is roughly equivalent to one percent of television households.

65. The three major commercial broadcast networks, as well as PBS, make use of satellite feeds to transmit programming to their television station affiliates for those affiliates to broadcast. The network feeds include programming for immediate broadcast, programming for delayed broadcast, material that requires editing and other additional processing prior to broadcast, internal network communications, and other material. The commercial networks all plan to scramble these network feeds and do not intend to market them to HSD households (or any

other customers). The networks view these feeds as private communications, but at this point are not trying to prevent HSD households from receiving them.

66. With respect to the network feeds, we concluded that they were not broadcasting but private communications. Thus, the prohibition of unauthorized reception in Section 705 of the Communications Act applies to them, and the networks are legally entitled to scramble their feeds and to refrain from providing them to HSD households. We also recognized the networks'interest in protecting the exclusivity provisions that are a foundation of the network-affiliate distribution system that well serves the overwhelming majority of television households. Some parties proposed that the networks should provide "clean" feeds to unserved households. The networks opposed these suggestions, and, because of unresolved legal and economic problems, we declined to endorse these proposals. While not presenting them as a panacea, we noted that expanded use of television translators could provide some extension of service.

67. The Public Broadcasting Service also uses satellite feeds to transmit programming to its affiliates. PBS is currently experimenting with a new digital audio system that would allow it to transmit in stereo or to provide audio in more than one language. This type of signal processing entails scrambling the signal. PBS has indicated that it will maintain a clean (unscrambled) feed of its national program service at all times, so HSD households without VC II decoders will be able to receive that service. HSDs with VC II decoders will be able to receive the scrambled feeds as well, without any payment or the need for individual authorization of their decoders. PBS will, however, maintain the privacy of its commercial, nonbroadcast satellite transmissions.

68. The superstation route for bringing commercial network programming to unserved areas appears more promising than provision of network feeds, but difficulties remain. They center on the status under copyright law of HSD reception of superstations. The Copyright Act of 1976 conferred on *cablesystems* a compulsory license to retransmit television broadcast stations. It is unclear whether this license also applies to reception by HSD households. This controversy affects all superstations--network or independent--and the carriers involved have taken varying approaches to the situation. Five carriers are involved. Three of them uplink independent stations only--Tempo (WTBS), Eastern Microwave (WOR), and United Video (WGN, WPIX, KTVT).[42] Netlink uplinks three network affiliates, two independents, and a PBS affiliate, all from Denver, Colorado. SBN uplinks three network affiliates. (See table 1 for a list of the Netlink and SBN stations.) It appears that all five now believe that the compulsory license does apply to HSD sales. Tempo, United Video, and SBN are selling to the HSD market, and Eastern Microwave has appointed distributors for that market. (See note 42.)

69. Netlink is also selling to the HSD market, but it is seeking the permission of the relevant networks and network affiliates for its carriage, and it is marketing its network stations only to unserved areas. (Netlink is currently making copyright payments pursuant to the compulsory license for all six of its services.) Netlink has secured an agreement with NBC to provide this service, and it is pursuing negotiations with ABC and CBS for similar agreements. SBN is marketing its package of network affiliates nationwide on an unrestricted basis. It has been sued by all three networks, two of their affiliate associations, and one individual affiliate. We know of no outstanding lawsuits that challenge the provision of independent superstations to HSD households, nor are we aware of any legal challenges to Netlink's provision of network stations.

70. The agreement[43] with NBC allows Netlink to transmit NBC's Denver station to HSD households without access to a local NBC affiliate off-air or via cable. Potential customers certify to Netlink that local service is not available, and local NBC affiliates have the right to review the roster of customers to ensure that they meet the lack-of-local-access criterion. Neither NBC nor its Denver station receive any compensation for permitting signal retransmission under this plan. It is important to recall that, for programming not produced by NBC or its local station, permission of the relevant copyright holders will also be required for these retransmissions.

71. Netlink currently offers the ABC and CBS stations in Denver on the same terms that the NBC station is offered. Customers interested in the services of the three commercial networks only pay2.00 per month for one, two, or three services, depending on how many network affiliates are locally available. Netlink's full six-channel package costs79.80 per year, plus a one-time5.00 decoder authorization charge.

72. Congressman Kastenmeier has introduced a bill, HR 2848, that would extend explicitly the compulsory copyright license to include the retransmission of certain television broadcast stations to HSD customers. HR 2848, the "Satellite Home Viewer Copyright Act of 1987," sets an initial fee of0.12 per subscriber per month for each channel. The House Subcommittee on Courts, Civil Liberties, and the Administration of Justice held hearings on HR 2848 on January 27, 1988. Representatives of all three networks testified at the hearing and affirmed their desire to reach unserved households with network programming.[44] A representative of the ABC Affiliate Association stated that ABC had been working with Netlink and expected to conclude an agreement in the near future. A representative of the CBS Television Network indicated that CBS and its affiliates endorsed the idea of distributing a CBS station to unserved households via satellite, without making any statement regarding Netlink as the distributor for such a service.

73. The network representatives also emphasized the importance they place on maintaining the exclusivity provisions of the network-affiliate distribution system. Two network representatives suggested that exclusivity was important for meeting affiliates' public interest obligations, and one of them referred explicitly to the promotion of localism.

74. The Commission has a *Notice of Inquiry* pending on the subject of the compulsory copyright license.[45] Here, we shall simply record our observation that the prospects appear good for providing network service to "white areas" via voluntary agreements among market participants.[46] We also reiterate the importance, based on communications policy considerations, that we ascribe to the network-affiliate distribution system. *Report* at para. 201.

V. CONCLUSIONS

75. The past year has brought substantial progress to the HSD marketplace. Many additional services have scrambled their signals with the VC II, confirming it as the *de facto* industry standard. Decoders, both the standalone model and the IRD, are widely available. Substantial production capacity is in place, particularly after the expansion of GIC's facilities in response to last year's temporary decoder shortage.

76. All of the satellite cable programmers that have scrambled their signals are marketing them to HSD households. During the past year, a variety of discounted program packages have been developed. Such packages are now widely available, many of them on a nationwide basis, at prices comparable to or below cable subscriber rates. The rivalry among independent suppliers is particularly intense in the case of the premium services, where two major satellite cable programmers compete with each other, as well as with non-cable services and home video.

77. We recognize that there is still uncertainty regarding the provision of television broadcast signals to HSD households via satellite. The question of the scope of the cable compulsory copyright license is now being addressed in the courts and in the Congress. Additionally, we have an outstanding *Notice of Inquiry* on this subject. We note, however, that, with respect to the provision of commercial network programming to unserved areas, voluntary market arrangements seem to be developing to fill that need. Such arrangements, should they come to fruition, would extend network service while also protecting the exclusivity of the network-affiliate distribution system, a system that now well serves the overwhelming majority of American television households.

78. Although the main purpose of this proceeding was not to scrutinize cable industry behavior for evidence of possible market power, we did review claims that such market power has been exerted against programmers to maintain HSD prices above the competitive level. Our investigation produced no persuasive evidence of the exercise of such power, and our analysis suggested possible alternative explanations for the observed pattern of prices, based on efficiency considerations. Hence we see no reason to recommend any form of price regulation for the HSD market. This type of regulation, be it direct or indirect, could have costly unintended consequences. Moreover, it may well not be effective in dealing with whatever underlying market power cable operators have in this area.

79. The number one problem facing the HSD industry today is piracy, or the theft of programming services. If unchecked, piracy could threaten the future viability of the entire industry. While the Communications Act provides civil and criminal remedies for piracy, the penalties are relatively light. We therefore recommend that the Congress consider increasing those penalties. Such an action would emphasize the importance of stopping piracy, while enhancing the ability of law enforcement authorities and aggrieved private parties to combat it. In other respects, the HSD market has been developing successfully, and we see no reason why that progress should not continue. Although we are terminating this proceeding, we are prepared re-examine HSD market conditions if future developments warrant it.

80. Accordingly, IT IS ORDERED, THAT this proceeding on satellite television signal scrambling is TERMINATED.

81. IT IS FURTHER ORDERED, THAT the Secretary SHALL FORWARD copies of this *Second Report* to the appropriate Committees and Subcommittees of the House of Representatives and the Senate.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster, III
Acting Secretary

FOOTNOTES

[1] Home Box Office scrambled its satellite signals on January 15, 1986. It was the first major service to do so. In late 1985, two pay per view services had begun scrambling.

[2] The investigation was agreed to on June 12, 1986, during a hearing before the Subcommittee on Telecommunications, Consumer Protection and Finance of the House Energy and Commerce Committee.

[3] The term "HSD market" refers to HSD owners, those selling programming to them, and manufacturers, distributors, and retailers of scrambling and descrambling equipment to consumers and programmers. The conclusion about government intervention referred to new initiatives. Participants in the market are, of course, subject to the antitrust laws, and to the prohibition of unauthorized reception of radio communications in 47 U.S.C. 605, as well as other legal provisions.

[4] Under Section 705 of the Communications Act (codified at 47 U.S.C. 605), HSD households may view without authorization any unscrambled satellite cable services that do not have HSD marketing plans in place. At this point, none of the services that do not plan to scramble have such marketing plans.

[5] The Commission is addressing the question of cable market power in local programming distribution in its implementation of the Cable Communications Policy Act of 1984. See *Report and Order* in MM Docket No. 84-1296. 50 Fed. Reg. 18637 (1985). *ACLU v. FCC* 823 F. 2d 1554 (D.C. Cir. 1987) *petition for cert. filed sub nom. Connecticut v. FCC. Memorandum Opinion and Order* in MM Docket No. 84-1296. 2 FCC Rcd. 5893 (1987). *Further Notice of Proposed Rule Making* in MM Docket No. 84-1296. 2 FCC Rcd. 5888 (1987). As noted below, the Department of Justice is also examining this question.

[6] The figures in this paragraph are drawn from *Communications Daily*, Jan. 5, 1988, at 6; and *Satellite Times*, Oct. 21, 1987, at 14. The gap between shipments and authorized units reflects decoders and modules in transit and in manufacturer, distributor, and dealer inventories. It also includes decoders operating with pirate chips.

[7] See "First Progress Report" at 14-19; "Second Progress Report" at 14-16, and "Third Progress Report" at 21-22. Some suggested that the shortage may have depressed HSD equipment sales. HSD equipment sales estimates vary significantly, but there is general agreement that they peaked in 1985 and were substantially lower in 1986 and 1987. For example, *Satellite Times* estimates sales for those three years as 522,000, 257,000, and 227,000 units, respectively. *Satellite Times*, May 6, 1987, at 1; Jan. 13, 1988, at 1. The Satellite Broadcasting and Communications Association (SBCA) estimates for those years are 720,000-750,000, 215,000-240,000, and 255,000. While equipment sales cannot be correlated precisely to decoder availability, there appears to be general agreement that equipment sales will increase modestly in 1988. *Satellite Times'* estimate is a bearish 250,000, while one

equipment manufacturer has forecast sales of 300,000 units. See *Satellite Times*, Jan. 13, 1988, at 1 and *Television Digest*, Nov. 23, 1987, at 7.

[8] During the shortage, GIC apparently did not raise wholesale prices on decoders, resorting instead to nonprice allocation methods. Some dealers and distributors did in fact raise their prices during the shortage. Price premiums have also been demanded and paid for early model decoders, those thought to be particulary easy to alter.

[9] An earlier type of pirate chip, known as the "three musketeers," is apparently no longer in use. That chip made it possible to decode almost all scrambled services provided a decoder was authorized for one service. By subscribing to the cheapest service (*e. g.*, CNN, for25 per year) viewers could gain access to a wide range of scrambled programming.

[10] See "First Progress Report" at 20-22, and "Second Progress Report" at 16 for a detailed discussion of the ECM progress.

[11] GIC has also hired a detective agency to assist it in antipiracy activities. That agency is currently investigating four dealers and 11 individuals suspected of involvement in piracy.

[12] Exports of consumer VC II decoders are allowed to Canada only. However, it appears that a large number of decoders have, in fact, reached Mexico and the Caribbean area. These areas apparently account for a significant amount of piracy activity. It is worth noting that, in many cases, foreign dish owners have no way to purchase American programming legally. This is because the satellite cable programmers do not have foreign exhibition rights for some or all of the material on their channels.

[13] Separate "hot lines" have been set up for dealers and consumers. As of mid-February, 300 calls had been made to those telephone lines, of which almost half generated leads on pirate activity. See *Communications Daily*, Feb. 18, 1988, at 5.

[14] The maximum penalty for a first offense is a fine of25,000 and one year of imprisonment. For each subsequent offense, the maximum is a50,000 fine and two years of imprisonment. 47 U.S.C. 605(d)(2). In contrast, the maximum penalty for knowingly trafficking in counterfeit labels for phonograph records or motion pictures is a fine of250,000 and five years imprisonment. 18 U.S.C. 2318. Penalties for fraud and related activity in connection with "access devices" (for example, credit cards) include fines and maximum prison terms of 10, 15, or 20 years, depending on the specific infraction. 18 U.S.C. 1029.

[15] The Home Satellite Television Association (HSTA) and the K-SAT Army, a grass-roots lobbying group, have been critical of the efforts of GIC and the SBCA. See "Third Progress Report" at 19.

[16] Newchannels is owned by Newhouse Broadcasting Corporation. Newhouse is the ninth-largest cable MSO. *Television Digest*, Nov. 30, 1987, p. 3.

[17] Showtime and The Movie Channel generally cannot be sold in adjacent counties. Viacom's basic services--MTV, VH-1, and Nickelodeon--are also licensed only within the cable franchise area.

[18] Tele-communications, Inc. (TCI), the largest cable MSO, owns 40 percent of Netlink. It appears that TCI in fact controls Netlink because TCI officials own substantial stock in Western TCI, a firm that owns another 40 percent of Netlink.

[19] The three commercial network affiliates among them are each available only where there is no local service. Netlink also markets its package of broadcast stations separately. See the section below on "HSD Household Access to Programming."

[20] Programmers generally grant cable operators rights to market their services within the cable franchise area and adjacent counties. For an exception, see note 17 above.

[21] The K-SAT survey includes, in addition to programming subscription fees (which are itemized by program service -- HBO, Showtime or Cinemax, Disney, superstations, *etc.*), the cost of installation of HSD systems, the cost of purchasing a VC II decoder, the cost of installation of a VC II decoder, and the cost of service calls for satellite equipment. On the cable side, installation of cable equipment and decoders, decoder lease, and service calls are also included. These figures are amortized over five years in each case and yield monthly charges of20.75 for HSDs and0.95 for cable. This procedure suffers from several defects. VC II decoder prices used range from399 to800; some of the decoder prices are well above market rates. Furthermore, HSD equipment permits the reception of a variety of non-cable services. Some examples are included within the list of unscrambled services compiled by the SBCA. See "Satellite TV: Facts At a Glance," December 1987. It is therefore inappropriate to attribute all of the HSD system installation and service charges (which amount to 14.50 per month in K-Sat's calculation) to reception of cable services. More fundamentally, programming prices are determined by supply and demand conditions. There is no reason to expect, as K-SAT apparently does, that the higher equipment costs of HSD distribution relative to cable distribution should be offset by lower program subscription prices for HSD customers. For a related analysis, see note 32 below. The discussion therein indicates that the monthly amortization cost of cable distribution plant is relatively low and that a substantial share of it should be attributed to improved reception of broadcast signals rather than reception of satellite cable signals.

[22] K-SAT's procedure includes adding 10 percent to all annual subscriptions to account for the fact that they must be paid in advance. This figure is probably too high, given current rates on savings instruments available to individuals, and the lower transactions costs of paying one bill per year instead of 12. In any event, the annual packages described herein do *not* have a surcharge added.

[23] Even if a different package of network services *were* available at that rate, the value of a second *distant* affiliate of each network to any household -- cable or HSD -- may well be quite low -- lower, perhaps than 4.16 per month.

[24] As of April 1, 1987, 7.24 percent of cable subscribers were served by systems with 19 or fewer channels; 21.27 percent were served by systems with 29 or fewer channels. See *Television Factbook : Cable and Services Volume* (Television Digest, Inc.: Washington, D.C., 1987) at A-41.

[25] *Communications Daily*, Jan. 5, 1988, at 6; *Satellite Times*, Jan 13, 1988, at 1.

[26] *Satellite Times*, Dec. 30, 1987, at 14.

[27] The question of whether the cable compulsory license applies to HSD sales is unresolved. We do not purport to resolve it. We simply note that such sales are widespread at this point. We also note that passage of legislation such as HR 2848 could change the current regime, and possibly limit entry into the superstation business. See the section on HSD Household Access to Programming below.

[28] Netlink indicates that during its start-up period it will get a significant share of its revenue from providing Denver broadcast stations by satellite to "cable communities in the Rocky Mountain region" that previously had received them via microwave. See Hearings on H R 2848 Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Committee on the Judiciary, 100th Cong. 2nd Sess. (Jan. 27, 1988). Prepared statement of Brian J. McCauley, Netlink USA, at 2. (hereafter cited as *McCauley Statement on HR 2848*). An SBN official, explaining that the company serves a relatively small number of cable systems, cited the wide availability of network

services via terrestrial broadcast stations and consequent limited demand by cable systems for satellite-delivered broadcast network service.

[29] See *Cablevision*, Jan. 4, 1988, at 64 for superstation data. The number of basic cable households is from *Cablevision*, Jan. 18, 1988, at 64.

[30] Cable rates themselves vary geographically, based on different supply and demand conditions. Since HSD households all receive programming directly from the satellites, supply conditions are reasonably constant across these households, but there is no reason to assume that these conditions yield costs that are the same as the average cost of supplying cable service. HSD households are located in a wide variety of settings, so it is difficult to generalize about "HSD demand conditions." Again, there is no reason to assume that HSD households have the same demand characteristics as the average cable subscriber.

[31] For a description of the computer authorization center, see *Report* at note 169 and "First Progress Report" at 22.

[32] Cable operators presumably amortize their plant by placing a charge for it as part of the fee for each service they provide. Since basic cable services are bundled together, it is impossible to know fees on a service by service basis. It is well-known, however, that local broadcast signals -- network and independent -- are among the most frequently watched services in cable homes. These services are in many cases available over the air, but cable subscribers get superior reception. Thus, in addition to providing programming competitive with local broadcasting, cable can also serve as a substitute for terrestrial broadcast station receiving antennas. While the cost of cable plant cannot be divided uniquely among the joint services it provides, a significant share of cable plant costs could probably be assigned to this "improved reception" service. Fees for satellite channels and other services amortize the rest. The magnitude of this charge is not clear. Shooshan and Jackson recently conducted a study of cable plant replacement cost. Shooshan and Jackson Inc. "Studies Prepared for United States Telephone Association in connection with Telephone Company/Cable Television Cross-ownership Rules. November, 1987. Appendix to *Comments of the United States Telephone Association* in CC Docket No. 82-266. Their benchmark estimate was519 per subscriber and they found that 11 years was the average life of cable plant. With an interest rate of 10 percent, a monthly payment of6.50 would amortize the cable plant. As noted above, a significant share of this is appropriately attributed to provision of good reception of local broadcast stations. Furthermore, the Shooshan and Jackson estimate is probably high. They include a "drop and install" component, but, because subscribers frequently pay a separate installation fee, this charge may not be recovered via monthly basic cable subscription fees. They also assume that 50 percent of homes passed by cable subscribe, whereas the current figure is 60 percent. Since the cable plant costs are estimated on a per mile basis, a higher penetration rate yields lower costs per subscriber. Adjusting for these factors yields a per subscriber figure of414, or5.19 per month.

[33] Hearing on S.889 Before the Subcommittee on Communications of the Senate Committee on Commerce, Science and Transportation; 100th Cong. 1st Sess. (July 31, 1987). Prepared Statement of Bob Phillips, National Rural Telecoummunications Cooperative, at 8.

[34] This second factor would be mitigated in the case of cable operators if they were to conduct joint marketing campaigns that reached both potential cable and potential HSD customers.

[35] *Cablevision*, Jan. 18, 1988, at 64.

[36] There is an additional piece of information not inconsistent with the market power hypothesis. Some packagers, *e. g.*, NRTC and Consumer Satellite Services (CSS), have complained about the unwillingness of certain services to provide them with "tier bit access." Tier bit access allows a packager to deal directly with the computer authorization center to authorize its subscribers. Without it, the packager has to provide all of its subscription information to each programmer and the programmer then "turns on" the subscriber's decoder. The effect of this is that subscribers are processed by the "back office" of both the packager and the programmer. Critics of this arrangement suggest that, not only is it duplicative and wasteful, but it pushes up the wholesale price that the packager must pay. CSS suggests that "cable-controlled" services seem to be less willing than others to grant tier bit access.

[37] Hearings on H R 1885 Before the Subcommittee on Telecommunicationsand Finance of the House Committee on Energy and Commerce, 100th Cong. 1st Sess. (July 1, 1987). Prepared statement of Charles R. Rule, U.S. Department of Justice, at 4-5.

[38] HBO's Ku band Festival service is currently an exception. HBO is now studying the possibility of marketing that service to HSD households. Since most of the installed HSD base does not have Ku band capability, HBO is apparently considering the provision of C band feeds of Festival for HSDs. Request TV, a pay per view service, is not now available to HSD households. On the other hand, services such as SelecTV, and First Run (a pay per view movie service) are available to HSDs but not to cable.

[39] Recently, Major League Baseball (MLB) signed a contract to scramble the backhaul feeds of baseball games beginning in 1988. See "Third Progress Report" at 6. These feeds transmit baseball games from the stadium back to the television stations that will be broadcasting them or to the network production center, from which they would be later transmitted to affiliates for broadcast. The backhaul feeds, like the network or "fronthaul" feeds, are not meant for the general public. They are not currently available to cable subscribers. MLB has indicated an interest in selling some backhaul feeds to the HSD market but *not* to the cable market. Some discussions have been held with potential distributors of this service, but no agreements have been made. Because MLB has chosen the Videocipher I scrambling system rather than the VC II, it is likely that marketing to HSD households would involve "re-uplinking" some transmissions and scrambling them with the VC II.

[40] Section 705(b) of the Communications Act contains an exemption to the general prohibition on unauthorized reception of radio communications. The exemption applies to private HSD viewing of satellite cable programming, *provided* that the programming is not scrambled and no marketing system has been established to provide HSD viewers with subscriptions to the programming. Few unscrambled services have such marketing systems. However, Viacom does charge19.95/year for each of its basic services -- MTV, VH-1, and Nickelodeon.

[41] The following estimates of white areas are available: 1) NBC--800,000 households; 2) ABC--861,000 households; 3) CBS--400,000-1,4000,000 households; 4) SBN--1 million households; 5) Netlink--a maximum of 1 million households; 6) *Satellite Orbit* magazine--its survey indicated that one-third of HSD households (of which there were 1.7 million at the time) reported poor or no off-air reception of each of the three commercial networks. The *Satellite Orbit* survey did not gather information on cable availability. The Netlink estimate refers to 1 million households without broadcast service and then suggests that cable availability to those households is limited. The network and *Satellite Orbit* estimates are described in "First Progress Report" at 26-27 and "Second Progress Report" at 19-20. The Netlink estimate is in *McCauley Statement on HR 2848* at 4. The SBN estimate is in Hearings on HR 2848 Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Com-

mittee on the Judiciary, 100th Cong. 2nd Sess. (Nov. 19, 1987). Prepared statement of Kazie Metzger, Satellite Broadcast Networks, at 1-2.

[42] On February 15, 1988, Eastern Microwave began uplinking two additional superstations--KTLA (Los Angeles-independent) and WSBK (Boston-independent). These services and WOR will, in the future, be available to HSD households only as a group of three. Eastern Microwave has contracted with Home Box Office, United Video, Tempo, Netlink, and National Program Service (a clearinghouse operated by Consumer Satellite Systems, an Indiana equipment distributor) to distribute its superstations. Pricing arrangements differ, but at least some of these distributors will charge36 per year for the three services. In a change from its previous stance, Eastern Microwave is now assuming copyright liability for sales of its services. These new developments are not reflected in other parts of this *Second Report*. In particular, because WOR, KTLA, and WSBK will be sold to HSDs only as a group, there will be changes in the program packages described above that include WOR.

[43] The agreement is embodied in an exchange of letters between NBC and Netlink. However, a binding contract has *not* been signed yet.

[44] See Hearing HR 2848 Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Committee on the Judiciary, 100th Cong. 2nd Sess. (Jan. 27, 1988). Prepared statements of Mr. Thomas S. Rogers, NBC, Inc.; Dr. Charles Sherman, ABC Affiliate Association; Mr. Anthony C. Malara, CBS Television Network.

[45] *Notice of Inquiry* in Gen. Docket No. 87-25. 2 FCC Rcd 2387 (1987).

[46] The development of voluntary agreements for satellite distribution of broadcast programming appears to weaken the case for legislative intervention, particularly if such agreements could also be negotiated for independent television station distribution.

STATEMENT OF CHAIRMAN DENNIS R. PATRICK ON SATELLITE TELEVISION SIGNAL SCRAMBLING

The story told by the Commission's second scrambling report is generally very positive. When HBO scrambled its satellite signal in January of 1986, some feared that the skies would go dark for home satellite dish owners. Today there exists a galaxy of satellite-to-home services available to dish owners.

In the early days of scrambling, some feared that dish owners would need as many descramblers as there were scrambled signals. Today, the Videocipher II decoder is firmly established as the *de facto* market standard.

During the spring and summer of 1987, some feared a protracted shortage of decoder supply. Today, decoders are widely available, in the wake of a substantial capacity expansion by General Instrument Corporation--a classic market response to shortages.

Before many services were scrambled, some feared that dish owners would need to pay exorbitant rates for service, and would have to order each service *a la carte*, as if assembling a banquet menu at a Chinese restaurant. Today, a wide variety of combination platters are available, many of them nationwide, with prompt "home delivery" in response to a single call to one of several toll free telephone numbers. Today we see fierce rivalry at the high-revenue, premium service end of the marketplace, with HBO and Showtime competing against each other, and both subject to rivalry from cassette rentals and non-cable satellite service. Today we see home satellite dish program packages priced comparably to or below cable subscriber rates.

Thus, the past year has been one of significant progress, and one cannot fail to be encouraged by developments during that period. Market processes are by nature dynamic, and I have no doubt that the HSD market will continue to progress and develop.

This is not to say that there are not remaining issues. One problem concerns theft of satellite program services--so-called signal "piracy." Because this serious problem threatens the viability of direct-to-home program distribution, the Commission recommends that Congress consider raising the penalties for piracy. And some Americans live in so-called "white areas' wherein they do not receive broadcast signals. I recognize that there is some copyright law uncertainty in this area. However, the evolution of voluntary arrangements to distribute broadcast services via satellite suggests, to me at least, that extending the cable compulsory license is unnecessary. Generally, I believe that we should be moving toward *fuller* recognition of property rights and freedom of contract. This would provide maximum incentives to produce and distribute programming to all Americans.

Some have also alleged that cable multiple system operators have exercised market power to force programmers to keep their HSD prices artificially high. Their prescription for this claimed problem, if labelled generically, is price regulation, although it is sometimes presented as "nondiscrimination." The focus of our report was scrambling--not cable market power. While we are not prepared to reject the market power hypothesis, price regulation, regardless of how it is packaged, has serious deficiencies. At best, it would treat a symptom of any underlying market power. At worst, it would spawn a mass of litigation on questions such as "What is discrimination?"; "What are 'reasonable' criteria for appointing distributors?"; and "Has would-be distributor X met these criteria?" Or such regulation could simply force programmers to adopt less efficient distribution modes in order to avoid these pitfalls, in which case satellite programming subscribers would foot the bill.

Regulation that would force certain patterns of distribution on programmers is similarly ill-advised. For example, while the nation has derived massive benefits over the years from the network-affiliate system, a system based on exclusive distribution, some have proposed to require that all scrambled satellite cable programming for private viewing be made available to HSDs. This appears to prohibit satellite-delivered cable-exclusive programming. And yet, as the broadcast network example demonstrates, exclusive supply relationships can be an extremely efficient distribution technique, one that can maximize program production incentives. If market power exists, it should be addressed at its source (by, for example, introducing competition) and not by imposing inefficiencies on the distribution system.

The HSD marketplace is still changing and evolving. While a number of issues remain, it is now clear that the advent of scrambling has promoted the public interest by strengthening protection for the property rights that are a prerequisite for markets to operate efficiently.

Before the
Federal Communications Commission
Washington, D.C. 20554

GEN. Docket No. 87-14

In the Matter of

Amendment of Part 2	RM-4829
of the Commission's Rules	RM-4831
Regarding the Allocation	RM-4983
of the 216-225 MHz Band	

ORDER ACCEPTING LATE - FILED COMMENTS

Adopted: March 7, 1988; Released: March 11, 1988

By the Office of Engineering and Technology:

1. The Commission has received a Motion for Acceptance of Late-Filed Comments (Motion) in response to the *Notice of Proposed Rule Making* (*Notice*) in this proceeding from the United Parcel Service of America, Inc. (UPS) and an Opposition to that Motion from the American Radio Relay League, Inc. (ARRL). UPS argues that it has only recently developed plans to design and implement a nationwide private land mobile system which can operate in the 220-222 MHz band and that knowledge of this network and equipment plans will assist the Commission in reaching its decision in this proceeding. ARRL argues that UPS comments are untimely, add nothing to the record and would unfairly prejudice other parties to this proceeding. Therefore, ARRL maintains that the UPS motion should be denied. Alternatively ARRL requests that a full reply comment period should be provided so that any and all commenters will have the opportunity to rebut the UPS comments.

2. We believe the UPS comments provide new and relevant information. Further, we recognize that the developments UPS describes took place after the comment period closed. Therefore, in order to develop as complete a record as possible in this proceeding, we are accepting UPS's comments and are allowing until March 31, 1988, for replies to UPS's comments.

3. This action is taken pursuant to authority found in Sections 4(i), 302, and 303 of the Communications Act of 1934 as amended, 47 U.S.C. Sections 154(i),302, and 303, and pursuant to Sections 0.31 and 0.241 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Thomas P. Stanley
Chief Engineer

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

The Prescription of Revised
Percentages of Depreciation
Pursuant to the Communications
Act of 1934, as Amended, for:

General Telephone Company of Florida, General Telephone Company of Indiana, General Telephone Company of the Southwest, Michigan Bell Telephone Company, New York Telephone Company, Northwestern Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, Wisconsin Bell, Inc., AT&T Communications - Interstate Division, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company of Virginia, Citizens Utilities Company of California, Continental Telephone Company of California, The Diamond State Telephone Company, General Telephone Company of the Northwest, General Telephone Company of Ohio, Illinois Bell Telephone Company, Mountain States Telephone and Telegraph Company, Nevada Bell, Pacific Bell

MEMORANDUM OPINION AND ORDER

Adopted: January 13, 1988; Released: January 22, 1988

By the Commission: Commissioner Dennis dissenting in part.

I. INTRODUCTION

1. On November 6, 1987 this Commission released an *Order Inviting Comments* [1] in which we asked parties to address issues concerning amortization of the depreciation reserve imbalances of certain local exchange carriers (LECs). The requests of these carriers for amortization authority were first considered in two depreciation rates orders which have been remanded from the United States Court of Appeals for the District of Columbia Circuit. In the first of these orders, the *1986 Depreciation Rates Order*,[2] we prescribed depreciation rates for 12 LECs as part of our regular three-year review of the depreciation rates of major carriers. In the second order, the *1986 Annual Updates Order*,[3] we prescribed revised depreciation rates for 13 carriers pursuant to our policy of considering requests for updated prescriptions between triennial reviews.[4] In our *Order Inviting Comments*, we invited comments on whether we should allow amortization of the reserve deficiencies of the carriers subject to the *1986 Orders*, and comments on matters raised by Western Union in its 1986 filing in this proceeding. We also invited comments on how the possible adoption of the proposal under consideration in our *Amortization Rule Making* [5] should affect the outcome of this proceeding.

2. We have reviewed the comments filed in response to the *Order Inviting Comments*, the comments filed in 1986 in response to two public notices inviting comments on the amortization requests, and the data filed in 1986 by the LECs affected by the *1986 Orders*. We conclude that the LECs that were denied amortizations in the *1986 Orders* should amortize their reserve imbalances over a five-year period, beginning January 1, 1987, consistent with the *Amortization Order*.[6] As to LECs which were first granted amortizations in the *1986 Orders*, we will allow such expenses booked in 1986 to remain on the books. However, the reserve imbalances as of January 1, 1987 of those LECs must also be amortized, consistent with the *Amortization Order*, over a five-year period effective January 1, 1987. Finally, we reaffirm our authorization of the amortization programs of LECs who were first granted amortization authority in 1984 and 1985, and whose programs were modified in the *1986 Orders*.[7]

II. BACKGROUND

3. During 1986, this Commission met (in so-called "three-way meetings") with carriers who were scheduled for a regular three-year review of their depreciation rates and with representatives of the state regulatory commissions having jurisdiction over those carriers. We also reviewed the filings of carriers that had filed for an update of prior rate prescriptions before their scheduled review. After these meetings and our review of the carriers' submissions in support of their proposed depreciation rates, we proposed revised depreciation rates and invited parties to comment on those rates.[8] Twenty-five parties filed comments.[9]

4. In the *1986 Depreciation Rates Order*, we prescribed new depreciation rates for the subject carriers. These new rates were based on a combination of revised life and salvage estimates, amortization of the net plant balances in dying accounts, and amortization of reserve imbalances. We authorized amortization of the reserve imbalances only for carriers whose state regulatory commissions concurred in the amortization. The requests of carriers without such concurrence were denied. We stated that this approach followed our policy for amortizations set forth in the *1984 Depreciation Rates Order*,[10] but we acknowledged that our depreciation policy must be reconsidered in light of the Supreme Court's decision in *Louisiana PSC*.[11] We concluded that this reexamination should be deferred to another proceeding because the policy review would unduly delay our prescription of rates for 1986. We noted that if we changed our policy to allow amortization for the carriers which had not obtained state concurrence, such amortizations could be applied as of January 1, 1987.[12]

5. In the *1986 Annual Updates Order*, we also considered carriers' requests for amortizations, and granted only those for which the carrier had state concurrence. Again, we stated that we would reexamine our policy on depreciation in light of *Louisiana PSC*. We denied Pacific's petition for reconsideration of our decision in the

1985 Depreciation Rates Order to deny Pacific's request for authority to amortize its reserve deficiency, concluding that Pacific had not provided us or its state commission with evidence showing that the level of competition in California necessitates the use of such amortization.[13]

6. The *1986 Orders* were appealed to the United States Court of Appeals by parties challenging both our denials and our grants of amortization authority. We asked the Court to remand the *1986 Annual Updates Order* because that order did not address certain arguments raised by Western Union in its 1986 comments in that proceeding. We asked the Court to remand the *1986 Depreciation Rates Order* so that we could consider the relevance to that case of the arguments raised by Western Union in the *1986 Annual Updates* proceeding. The Court remanded the cases on July 30, 1987. We subsequently released the *Amortization NPRM* in which we invited comment on our tentative conclusion that we should amortize the depreciation reserve imbalances of all LECs for which we prescribe depreciation rates, and which had not previously been granted amortizations. Based on the record in that proceeding, we adopted the *Amortization Order* instituting an industry-wide amortization program, effective January 1, 1987.[14] We concluded that, for this one-time amortization, a LEC need not have the concurrence of its state regulatory commission.[15]

III. SUMMARY OF PLEADINGS

7. Ten parties responded to the *Order Inviting Comments*.[16] Bell Atlantic states that in 1986 there was a clear need for this Commission to amortize the reserve imbalances authorized in the *1986 Orders*. It asserts that there was a valid record to support amortization for its carriers including evidence of local competition and the need for carriers to price their services competitively. Bell Atlantic also asserts that we properly relied on findings of state commissions that the prescribed amortization periods were appropriate, and reflected the particular operating conditions of each jurisdiction.[17] It states that any changes to the 1986 amortizations would require future ratepayers to pay higher rates, would pose substantial administrative difficulties for both the carriers and this Commission, and would be viewed negatively by the financial community.

8. BellSouth states that we should reexamine amortization requests denied in the *1986 Orders* in light of *Louisiana PSC* if they were denied solely because of lack of state concurrence. There is, in its view, no need to reexamine the amortizations that were granted. These decisions, it states, have influenced the investment community and any changes "would seriously impair the credibility of the regulatory process."[18] BellSouth asserts that by not changing the 1986 amortizations, we will avoid reopening the LECs' books and restating previously booked depreciation, and avoid disruptive impact on the NECA Carrier Common Line Pool. It maintains that there is record evidence to support the 1986 amortizations, including extensive analyses of the data submitted by the carriers, and that this Commission did not delegate its responsibilities to the states in determining whether to approve amortization. It states that we need not, as Western Union argued in its 1986 comments, differentiate on an account-by-account basis in considering whether there is a need for amortization.

9. GTE states that this Commission must take corrective measures to make certain that the depreciation policies adopted in *Property Depreciation* [19] are properly implemented. It states that we need not rely only on remaining-life depreciation procedures, and that the actions taken in the *1986 Orders* are in harmony with and properly implement our basic depreciation policy. GTE states that Western Union did not effectively challenge the determination that recovery of the deficiencies over a period shorter than the plant's remaining life was required in the circumstances before us. It asserts that there was an adequate record for such action. It also argues that we properly amortized all accounts, rather than certain accounts, because this approach offsets reserve deficiencies in some accounts with surpluses in other accounts. Finally, GTE urges us not to reverse any of the amortizations granted in 1986.

10. Illinois Bell states that the factors which led us to approve amortization in the *1984 Depreciation Rates Order* continued into 1986, and thus there was a basis for the additional amortization which we authorized for it. Illinois Bell asserts that we did not rely exclusively on the views of the Illinois Commerce Commission in approving amortization, and that our action was thus not an abdication of our responsibilities.

11. Northwestern Bell states that it needs to amortize, in a reasonably short time, reserve deficiencies resulting from the use of rates that do not approximate the life of newer switching equipment. It states that it should be treated in the same manner as we will treat LECs in the *AmortizationOrder*, but that it would be prejudiced if amortization were deferred until 1988.

12. NYT states that the arguments raised by Western Union in its 1986 filings are flawed, and that the LECs continue to confront rapid technological change and competition. It states that we have properly authorized amortization to move rates closer to costs. NYT notes that its amortization was reflected in rates charged in 1986, and that it would be disruptive to modify the earlier approval. It requests that we grant a five- year amortization, as recommended in the *Amortization NPRM*, effective January 1, 1987, and supercede the longer schedule authorized in the *1986 Depreciation Rates Order*. In its view, as a substantial net contributor to the cost pool, its "subsidy burden" would be increased by a relatively slower amortization period. Thus, NYT urges us to include it in the uniform five-year amortization.[20]

13. PacTel asserts that we should not reverse any of the amortizations authorized in the *1986 Orders*, but that we should reverse the decision not to grant it amortization authority. It states that there is now a full record supporting that action, notwithstanding its lack of state concurrence. It urges us to approve a January 1, 1987 effective date for its requested five-year amortization, because that will allow use of current data which reflects reserve activity during 1986. It believes that we should treat carriers with similar reserve positions uniformly, because the use of remaining-life procedures alone will not correct the industry's problems.

14. SW Bell states that we should not change the amounts or amortization periods approved in the *1986 Orders*, because we had a complete record before us then to support that action -- even if those decisions differ from those to be adopted in the *Amortization Order*. It states that any changes in amortizations booked in 1986 would distort earnings and pooling arrangements. SW Bell rec-

ommends that LECs denied amortization authority in the *1986 Orders* should be eligible for amortization under the policy adopted in the *Amortization Order* even if they do not have state concurrence.

15. USTA urges us not to retroactively reverse the 1986 amortizations unless a carrier requests a change. In its view, any modification to the 1986 amortizations could create significant problems for the carriers. USTA states that it would be inequitable, costly and disruptive to mandate change, because the books would require restatement and the rates approved have been paid. It also states that there was an adequate basis to support the 1986 actions in view of the detailed reports filed by the requesting carriers.

16. Western Union asserts that we authorized rapid amortizations in the *1986 Orders* " . . . relying solely on the asserted but undocumented fact of state commission concurrence."[21] It states that we deviated in those *Orders* from the policies set forth in the *1984 Depreciation Rates Order*, and that we improperly delegated our responsibilities to the states. It concludes that the *1986 Orders* are invalid and accordingly should be vacated as of their original date. Western Union asserts that it would be unfair to revise the depreciations actions retroactively. In its view, this procedure would allow the LECs to recover twice, because the 1986 amortizations are reflected in rates charged during 1987. Western Union states that if we simply add back the depreciation expenses booked in 1987 and start a new amortization, ratepayers will again pay rates based on those expenses. It asks that we order refunds, with interest, of the difference between the rates actually charged in 1987 and the rates that would have been allowed without amortization authority. Western Union states that it opposes the five-year amortization proposed in the *Amortization NPRM*. It states that if we do grant amortizations effective January 1, 1987 the revision of the 1986 rates should be based on amortization over five years, with a refund of the difference attributable to the use of five years rather than the faster amortization periods authorized in the *1986 Orders*.

17. Seven parties filed replies.[22] GTE disputes Western Union's position that the 1986 amortizations were unduly rapid. It asserts that the record establishes that they are simply a recovery of under-accruals resulting from overstated life and salvage factors. GTE and U S West disagree that this Commission "rubber stamped" the 1986 amortization requests that were supported by state commissions, because there were independent findings based on a record that supported amortization.[23] U S West states that the orders were not invalid, and that the prescriptions were made in good faith and relied on by the investment community. It also describes the problems that, in its view, would result from vacation of the *1986 Orders*, including restatement of earnings, recalculation of pool settlements and the loss of a window of opportunity to resolve the deficiency problem without increasing rates.

18. SW Bell also asserts that the record is adequate to support our authorization of amortizations in 1986, including the existence of substantial reserve imbalances and the need to solve the problem rapidly due to the " . . . increasingly competitive condition of access markets."[24] When prior amortization has not been granted, SW Bell argues, amortization consistent with the procedures to be approved in the *Amortization Order* should be granted.

19. BellSouth states that this Commission properly took into account state commission recommendations in the *1986 Orders*, and that our actions were based upon valid record data, such as its 1986 Depreciation Study. NYT also refers to evidence which supports the *1986 Orders*, such as the depreciation rate studies of the LECs and the meetings with state representatives. It also states that this Commission had previously approved the use of amortization as a procedure to reduce reserve imbalances. Finally, it asserts that it would be harmful to reverse the amortizations, because such action would increase the LECs' rate bases and reserve deficiencies.

20. AT&T states that Western Union's arguments are not applicable to AT&T's amortization, because the *1986 Annual Updates Order* only made "technical adjustments" to the amortization granted it in the *1985 Depreciation Rates Order*. It cites the record in the *1985 Depreciation Rates Order* concerning the nature of competition in the interstate interexchange market as a valid basis for its amortization authority.

21. Western Union, in its reply, maintains that this Commission made no findings in the *1986 Orders* that rapid amortization was warranted. It dismisses contrary arguments of the LECs, and states that we cannot rely on evidence of competition in California to grant amortization to PacTel because we previously found such data inadequate for a grant. It does not challenge the amortization authorized for Illinois Bell, however, because it was an extension of a previous grant which was made after consideration of factors such as competition and impact on ratepayers.[25] It disagrees with those LECs which argue that amortization is required due to the threat of bypass, stating that no showing is made that the bypass is so significant as to require rapid amortization. Western Union disagrees with BellSouth's view that it has presented adequate justification for amortization, and states that the existence of three-way meetings is not adequate grounds for amortization if parties are not given a chance to respond to the positions reached there. Finally, it states that it asks for a retroactive vacation of the orders only to January 1, 1987. Thus it disagrees with the parties which assert that vacation of the orders would cause disruption and a reopening of their books.

IV. DISCUSSION

22. In the *Order Inviting Comments*, we identified a number of issues which must be resolved in connection with the remand of the *1986 Orders*, and sought comment on ways to proceed in light of our proposal in the *Amortization NPRM* to require a uniform five-year reserve imbalance amortization for all carriers that had not been granted amortization earlier. We first address Western Union's contention that the amortizations granted in the *1986 Orders* must be vacated as of January 1, 1987, with refunds of the expenses improperly amortized. For the reasons given below, we conclude that, while those authorizations should be modified to allow five-year amortizations effective January 1, 1987, no refunds are necessary. We also address four additional issues which must be resolved: (a) how to treat the carriers denied amortization in the *1986 Orders* ; (b) how to treat the carriers granted amortizations with an effective date prior to January 1, 1987; (c) what action, if any, is required to conform to the *Amortization Order* the amortizations au-

thorized in the *1986 Orders* with a 1987 effective date, and; (d) whether the 1986 modifications to the 1984 and 1985 amortizations should be reauthorized.

A. ***Validity of the Post - 1986 Amortizations Granted in the 1986 Orders***

23. Western Union's assertion that amortizations were improperly granted in the *1986 Orders* is based on its position that we failed to make our own findings as to the need for rapid amortization and the impact on the public. Instead, argues Western Union, we relied solely on state commissions' approval of amortization.[26] Western Union also states that the *1986 Orders* "directly contradict" the policies established in the *1984 Depreciation Rates Order*.

24. Western Union is correct that the *1986 Orders* fail to state findings sufficient to demonstrate that amortization was required for those LECs granted such authority. Our substantial reliance in those *Orders* on the decisions of the state commissions as to the need for and duration of amortizations was unnecessary in light of the determinations in *Louisiana PSC* that state and federal depreciation decisions need not conform.[27]

25. While the *1986 Orders* followed established procedures for considering amortization requests, they failed to state detailed findings. We have now had an opportunity to consider fully the record before us in light of the concerns raised by Western Union and other parties in their 1986 filings. Based on that review, we conclude that the carriers granted authority in the *1986 Orders* failed to show that they had a particular need for the short amortization periods requested (three or four years).[28] We conclude, however, that the rationale for our adoption in the *Amortization Order* of a uniform five-year amortization period for current industry reserve deficiencies applies to these carriers. Indeed, we note that most of these carriers sought an effective date of January 1, 1987,[29] the date adopted in the *Amortization Order*. We therefore modify the grants of amortization authority in the *1986 Orders* to provide that carriers use a five-year period beginning January 1, 1987.

B. ***Carriers Denied Amortization Authority in the 1986 Orders***

26. We also have examined the waiver requests of carriers that were denied leave to amortize in the *1986 Orders*. With respect to those carriers, we reach the same conclusions that we reach with respect to the carriers who were granted authority in the *1986 Orders* to amortize over periods less than five years, *i. e.*, that those carriers failed to show a particular need for the short amortization periods requested. Of course, those carriers will use five-year amortizations effective January 1, 1987, pursuant to the *Amortization Order*.[30]

C. ***Amortizations With an Effective Date Prior to 1987***

27. Certain carriers were granted amortization authority in the *1986 Orders* effective during 1986. These carriers state that no modifications should be made to these amortizations, because they have closed their books for 1986 and it would be disruptive to reopen them to restate the 1986 earnings.[31] We agree that any advantage to be gained from a modification of the amortizations as to the amounts booked in 1986 would be more than offset by the problems associated with that effort. The 1986 books of account are closed, and earnings for that period have been reported and relied upon by the financial community. The carriers relied in good faith on our decision to allow them to close their books with these expenses. Moreover, because the amounts will be recovered eventually, our decision in this regard affects only the timing of the recovery. The amounts booked are, in most cases, larger than the amounts that would have been booked had we established the five-year amortization policy earlier. Nevertheless, any benefits to ratepayers that might result from reversing the 1986 entries are outweighed by the need to establish finality for the 1986 financial data, especially in view of the fact that our accounting changes traditionally do not require such adjustments to earlier periods. This analysis does not apply, however, to amounts not yet booked. Accordingly, carriers must determine the remaining reserve deficiency as of January 1, 1987 and begin a five-year amortization on that date. The new amortization amounts for these carriers appear in Appendix B. The specific depreciation rates remain those previously prescribed.

D. ***Carriers Granted Amortization With a 1987 Effective Date***

28. Although the books of account for 1986 have been closed, amortizations booked in 1987 are subject to adjustment. Carriers can adjust their books for a given year until the books are closed in January of the following year,[32] and the final financial data for 1987 have not been reported. Accordingly, carriers that were authorized in the *1986 Orders* to amortize their reserve imbalances over less than a five-year period could still conform to the uniform five-year amortization policy established in the *Amortization Order* without any disruption of their financial reporting processes. We concluded in the *Amortization Order* that the reserve deficiency problem should be approached on a uniform basis, and that a five- year period best accomodates the concerns of ratepayers and carriers.[33] Implementation of this policy requires that the carriers covered by the *1986 Orders* conform their amortizations for 1987 and beyond to the *Amortization Order*.[34] Therefore, these carriers must restate the 1987 books to reflect the amortizations contained in Appendix B rather than the amortizations contained in the *1986 Orders*.

29. This decision is not unfair to the affected carriers. Although these carriers requested that we continue the amortizations granted in the *1986 Orders*, their reasons for an amortization period of less than five years are not sufficient to overcome the compelling reasons for a nationwide five- year period identified in the *Amortization Order*.[35]

E. ***Update of Amortizations Authorized in 1984 and 1985***

30. In the *1986 Orders*, we modified amortizations which were authorized in 1984 and 1985 in orders that became final.[36] Western Union states that it does not object to that part of the *1986 Orders* that modified the amortization previously granted Illinois Bell.[37] We believe that it is best that these original amortizations, as updated, continue as authorized. These amortizations, unlike those first authorized in the *1986 Orders*, became final and have been relied upon for at least two years by this Commission, state commissions and the carriers. Moreover, because these amortizations were relatively short, the carriers are into the latter half of their period. However, for these carriers -- as well as the others granted amortization herein -- we do not intend to make any changes in

the amount of reserve deficiency being amortized or the length of the amortization during the five years of the amortization established in the *Amortization Order*.[38]

F. *Other Matters*

31. In its 1986 comments, Western Union contended that we must proceed on an account-by-account basis when considering an amortization request. We conclude that this would be an unwise approach. Carriers may have reserve surpluses in certain accounts, and the amortization of these surpluses will offset the deficiencies to lessen the effect on expense levels. Otherwise, carriers would have an incentive to seek only amortizations for accounts with deficiencies, and ratepayers would not benefit from any surpluses that may exist.

32. Western Union argues that it would be "arbitrary and capricious" for us to grant amortization authority to Pacific Bell in view of the conclusion in the *1986 Annual Updates Order* [39] that its showing had been inadequate for such authority.[40] Western Union fails to acknowledge that we have changed our policy since we made that conclusion, and that we then were unwilling to take amortizations when faced with strong state opposition thereto because of the possible impact on intrastate rates. In the *Amortization Order*, we have based the uniform amortization program on the need to reduce more quickly a reserve problem that, if unattended, will have adverse consequences on the LECs' pricing of services. Specific concerns about Pacific's service lives and salvage values will be resolved in proceedings which permit state participation. However, for this amortization we will not be bound by an earlier finding, which did not become final, and was made in a different regulatory setting, nor will we be governed by state opposition.[41]

33. Western Union's concern that our authorization of five-year amortizations herein will require ratepayers to pay twice for the depreciation expenses is unfounded. The carriers that must now use five-year amortizations rather than the previously authorized, and, in all but one case, shorter amortizations, will book fewer depreciation expenses for 1987 than the *1986 Orders* would allow. However, it would not be proper to require a refund due only to this one accounting change. It is not uncommon in regulatory accounting for such expense levels to be changed during the year and made effective as of an earlier date. If the lower expense levels resulting from our amortization change (and any other accounting changes) cause a carrier's 1987 rate of return to exceed its prescribed rate of return, refunds will be ordered consistent with the procedures established in CC Docket 84-800, and Western Union along with other ratepayers will enjoy rate reductions.

V. CONCLUSION

34. For the reasons discussed herein, we modify the *1986 Orders* to the extent indicated. This action will allow us to bring the carriers who filed amortization requests in 1986 within the uniform five-year amortization applicable to all LECs, with only few exceptions. Moreover, our revisitation of the *1986 Orders* assures that the amortizations reflect a proper balance between the interests of ratepayers and carriers as to the timing of capital recovery. Finally, the modified amortizations herein will allow the LECs to move more quickly toward cost-based rates, a goal which we concluded in the *Amortization Order* to be necessary in today's developing telecommunications environment.

VI. ORDERING CLAUSES

35. Accordingly, IT IS ORDERED, that the *1986 Orders* ARE MODIFIED as set forth herein.[42]

36. IT IS FURTHER ORDERED, That this *Memorandum Opinion and Order* IS EFFECTIVE UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

FOOTNOTES

[1] 2 FCC Rcd 7172.

[2] The Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act of 1934, as amended, for: General Telephone Co. of Florida *et al.*, 2 FCC Rcd 610 (1987), *motion for remand granted sub nom.* Northwestern Bell Telephone Co. v. FCC, Case No. 87-1126 (D.C. Cir. July 30, 1987) (*1986 Depreciation Rates Order*).

[3] The Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act of 1934, as Amended, for: AT&T Communications - Interstate Division *et al.*, 2 FCC Rcd 842 (1987), *motion for remand granted sub nom.* The Western Union Telegraph Co. v. FCC, Case No. 87-1139 (D.C. Cir. July 30, 1987) (*1986 Annual Updates Order*). We will refer to the *1986 Annual Updates Order* and the *1986 Depreciation Rates Order* collectively as the *1986 Orders*.

[4] In the *1986 Annual Updates Order*, we also denied Pacific Bell's petition for reconsideration of a 1985 order which denied its request for amortization of its reserve imbalance. *See* Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act of 1934, as Amended, for: The Bell Telephone Co. of Pennsylvania *et al.*, 103 FCC 2d 185 (1985) (*1985 Depreciation Rates Order*).

[5] Amortization of Depreciation Reserve Imbalances of Local Exchange Carriers, 2 FCC Rcd 6473 (1987) (*Notice of Proposed Rule Making*) (*Amortization Rule Making* or *NPRM*). In the *Amortization Rule Making*, we stated that the amortizations considered in the *1986 Orders* would be considered in this proceeding. The *Amortization Rule Making* contains an explanation of depreciation accounting and definitions of certain terms used herein.

[6] *See* Amortization of Depreciation Reserve Imbalances of Local Exchange Carriers, FCC 88-6 (released January 21, 1988) (*Amortization Order*).

[7] In the *Order Inviting Comments*, we stated that the resolution of all issues in the *1986 Orders* other than amortization of reserve imbalances had become final and would not be addressed in this proceeding. Accordingly, we have not changed the depreciation rates prescribed in those orders.

[8] *See Public Notice*, Mimeo. No. 6925, released September 15, 1986; *Public Notice*, DA 86-32, released October 27, 1986. The rates on which we sought comment were not necessarily those requested by the carriers. Rather, they represented our proposals after analysis of all the record data.

[9] The parties filing comments in 1986 are listed in Appendix A.

[10] Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act of 1934, as Amended, for: The Chesapeake and Potomac Telephone Co. *et al.*, 99 FCC 2d 1094 (1984) (*1984 Depreciation Rates Order*).

[11] Louisiana Public Service Commission v. FCC, 106 S.Ct. 1890 (1986) (*Louisiana PSC*). That case established the right of state commissions to use different depreciation calculations for purposes of intrastate ratemaking.

[12] Under Section 43.43(e) of our rules, changes in depreciation rates may be effective as of the start of the accounting period.

[13] 2 FCC Rcd at 844.

[14] *Amortization Order*, note 6, *supra*.

[15] We emphasized, however, that we did not plan to change our practice of regular three-year depreciation reviews for each subject carrier, including consultation with the carriers, representatives of their state commissions and, in some cases, other state officials.

[16] The Bell Atlantic Telephone Cos. (Bell Atlantic), BellSouth Corp., Southern Bell Telephone and Telegraph Co. and South Central Bell Telephone Co. (BellSouth), The GTE Telephone Cos. (GTE), Illinois Bell Telephone Co. (Illinois Bell), New York Telephone Co. (NYT), Northwestern Bell Telephone Co. (NBT), Pacific Bell and Nevada Bell (PacTel), Southwestern Bell Telephone Co. (SW Bell), United States Telephone Association (USTA) and The Western Union Telegraph Co. (Western Union).

[17] Bell Atlantic Comments at 8.

[18] BellSouth Comments at 5.

[19] Amendment of Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies), 83 FCC 2d 267 (1980) (*Property* Depreciation), recon. 87 FCC 2d 916 (1981), Supplemental Opinion and Order, 87 FCC 2d 1112 (1981).

[20] NYT Comments at 6-7.

[21] Western Union Comments at 6.

[22] American Telephone and Telegraph Co. (AT&T), BellSouth, GTE, NYT, SW Bell, Mountain States Telephone and Telegraph Co., Northwestern Bell Telephone Co. and Pacific Northwest Bell Telephone Co. (collectively, U S West) and Western Union.

[23] In support of this argument, U S West identifies situations in which state commissions recommended amortization but this Commission denied the request.

[24] SW Bell Reply at 3.

[25] In an erratum filed December 11, 1987, Western Union modified its Comments so as not to seek vacation of that part of the 1986 Annual Updates Order applicable to AT&T, citing the findings in the 1985 Depreciation Rates Order.

[26] Western Union Comments at 6-7.

[27] Of course, consultation with the states remains an entirely appropriate part of our consideration of depreciation rates and we will continue to consult with states when we conduct regular depreciation reviews. See 47 U.S.C. '220(i).

[28] We need not address the amortization requests of carriers who sought amortizations of five years or more, as they would, in any event, be covered by the terms of the Amortization Order.

[29] We address carriers granted amortization authority effective before January 1, 1987 in Section IV C, infra.

[30] The approved amortization amounts for these carriers are contained in separate orders.

[31] Western Union appears to agree with this position. It asserts that it does not seek retroactivity prior to January 1, 1987, and notes that rates based on the disputed amortizations did not take effect until 1987. Western Union Reply at 9-10.

[32] Our rules specifically provide that a carrier may make depreciation rate changes effective as of any date during the accounting period, and that procedure is well known and used. As noted in the Amortization Order, many carriers filing depreciation rate change requests in 1987 requested that they be made effective as of January 1, 1987 notwithstanding the fact that the changes were proposed well after that date.

[33] Amortization Order at para. 28.

[34] In most cases, this decision lengthens the carriers' amortization period. Only New York Telephone was authorized to amortize over more than five years.

[35] See Amortization Order at paras. 23 and 28.

[36] Those amortizations were Illinois Bell in Illinois, Southern Bell Telephone and Telegraph Co. in Georgia and North Carolina, and AT&T. See 1984 Depreciation Rates Order, supra; The Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act of 1934, as amended, for: Southern Bell Telephone and Telegraph Co., FCC 86-60 (released January 29, 1986); 1985 Depreciation Rates Order, supra.

[37] Western Union Reply at 5.

[38] See Amortization Order at para. 30.

[39] 2 FCC Rcd at 844.

[40] Western Union Reply at 4.

[41] In any event, California did not file comments in this proceeding or in response to the Amortization NPRM.

[42] A revised schedule of the amortization amounts prescribed pursuant to this Memorandum Opinion and Order is attached as Appendix B.

APPENDIX A

Parties Filing Comments in Response to September 15, 1986 Public Notice

Arkansas Public Service Commission
District of Columbia Office of People's Counsel
Florida Public Service Commission
Florida Public Counsel
Georgia Public Service Commission
Michigan Bell Telephone Co.
Michigan Public Service Commission
Minnesota Department of Public Service
New York Telephone Co.
North Carolina Utilities Commission
Northwestern Bell Telephone Co.
Public Service Commission of the District of Columbia
South Carolina Department of Consumer Affairs
Southern Bell Telephone and Telegraph Co.
Southwestern Bell Telephone Co.
United Inter-Mountain Telephone Co.
Virginia State Corporation Commission
Wisconsin Bell, Inc.

Parties Filing Comments in Response to October 27, 1986 Public Notice

General Telephone Co. of the South
Idaho Public Utilities Commission
Oregon Public Utilities Commissioner
Pacific Bell
Southwestern Bell Telephone Co.
The Western Union Telegraph Co.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
BELL OF PENNSYLVANIA

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	1342
221	COE - CIRCUIT - OTHER	14433
221	COE - CIRCUIT - DDS	-114
221	COE - RADIO	-84
221	COE - ELECTRONIC - ANALOG	16509
221	COE - ELECTRONIC - DIGITAL	790
231	STR APP - TELE & OTHER	-96
235	PUBLIC TELEPHONE	258
234	LARGE PBX - OTHER	-3346
234	LARGE PBX - DDS	-242
241	POLE LINES	1958
242	AERIAL CABLE - OTHER	10968
242	AERIAL CABLE - BLDG	1175
242	UNDERGROUND CABLE	4133
242	BURIED CABLE	1859
242	SUBMARINE CABLE	-8
243	AERIAL WIRE	508
244	UNDERGROUND CONDUIT	663
261	F&OE - FURN & OFFICE EQPT	838
261	COMPUTERS & AMA	1697
262	OTHER COMM EQUIPMENT	208
264	V&OWE - MOTOR VEHICLES	-426
264	V&OWE - OTHER WORK EQPT	42

Rates for all accounts and amortizations for COE-Step-By-Step and COE-Crossbar remain as prescribed in FCC Order 86-32, released January 29, 1987.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	-185
221	COE - CIRCUIT - NON DED	-44
221	COE - CIRCUIT - DDS	-52
221	COE - RADIO	-1
221	COE - ELECTRONIC - ANALOG	3944
221	COE - ELECTRONIC - DIGITAL	19
231	STA APP - TELE & MISC	-264
234	LARGE PBX - OTHER	-118
234	LARGE PBX - DDS	-34
235	PUBLIC TELEPHONE	95
241	POLE LINES	118
242	AERIAL CABLE	44
242	UNDERGROUND CABLE	4092
242	BURIED CABLE	-86
242	SUBMARINE CABLE	-9
244	UNDERGROUND CONDUIT	-78
261	F&OE - STOREROOM & OTHER	64
262	OTHER COMM EQUIPMENT	134
264	V&OWE - MOTOR VEHICLES	-10
264	V&OWE - OTHER WORK EQPT	17

Rates for all accounts remain as prescribed in FCC Order 86-603, released January 22, 1987.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
DIAMOND STATE TELEPHONE COMPANY - DELAWARE

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	108
221	COE - CIRCUIT - OTHER	641
221	COE - CIRCUIT - DDS	-13
221	COE - RADIO	1
221	COE - ELECTRONIC - ANALOG	1270
221	COE - ELECTRONIC - DIGITAL	49
231	STA APP - TELE & OTHER	28
235	PUBLIC TELEPHONE	16
234	LARGE PBX - OTHER	-271
234	LARGE PBX - DDS	-17
241	POLE LINES	-43
242	AERIAL CABLE - OTHER	574
242	AERIAL CABLE - BLDG	-5
242	UNDERGROUND CABLE	328
242	BURIED CABLE	346
242	SUBMARINE CABLE	0
243	AERIAL WIRE	66
244	UNDERGROUND CONDUIT	-61
261	COMPUTERS & AMA	6
262	OTHER COMM EQUIPMENT	38
264	V&OWE - MOTOR VEHICLES	-22
264	V&OWE - OTHER WORK EQPT	8

Rates for all accounts remain as prescribed in FCC Order 87-32, released January 29, 198

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
GENERAL TELEPHONE COMPANY OF FLORIDA

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	-333
221	COE - MANUAL SWITCHING	102
221	COE - ELECTRONIC-ANALOG	898
221	COE - ELECTRONIC-DIGITAL	1109
221	COE - CIRCUIT	4074
221	COE - RADIO	484
231	STA APP - TEL - REGULATED	118
231	STA APP - TELETYPEWRITER	17
234	LARGE PBX - MISCELLANEOUS	395
235	PUBLIC TELEPHONE	233
241	POLE LINES	412
242	AERIAL CABLE	954
242	UNDERGROUND CABLE	1894
242	BURIED CABLE	598
242	SUBMARINE CABLE	-11
243	AERIAL WIRE	-53
244	UNDERGROUND CONDUIT	144
261	FURNITURE	90
261	COMPUTERS/DATA EQPT	419
261	OFFICE EQUIPMENT	48
262	COMPANY OFFICIAL EQPT	904
264	V&OWE - MOTOR VEHICLES	-404
264	V&OWE - SHOP EQUIPMENT	-7
264	V&OWE - TOOLS & OWE	-196

Rates for all accounts and amortizations for COE-TSPS remain as prescribed in FCC Order 87-603, released January 22, 1987.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
GENERAL TELEPHONE COMPANY OF THE SOUTH - SOUTH CAROLINA

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	25
221	COE - MANUAL SW - DIG	-103
221	COE - DIGITAL SW / AMRE	64
221	COE - CIRCUIT	358
221	COE - RADIO	-7
241	POLE LINES	18
242	AERIAL CABLE	183
242	UNDERGROUND CABLE	18
242	BURIED CABLE	347
242	SUBMARINE CABLE	2
243	AERIAL WIRE	62
244	UNDERGROUND CONDUIT	-1
261	F&OE - FURN & FIXTURES	60
264	MOTOR VEHICLES	-53
264	TOOLS & OTHER WORK EQUIPMENT	5

Rates for all accounts remain as prescribed in FCC Order 87-32, released January 29, 1987

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
GENERAL TELEPHONE COMPANY OF THE SOUTHWEST - NEW MEXICO

Effective January 1, 1987#

Rate Category	Description	Annual Amort. Expense ($000)
	A	B
212	BUILDINGS	59
221	COE - ELECTRONIC-ANALOG	154
221	COE - ELECTRONIC-DIGITAL	37
221	COE - CIRCUIT	261
221	COE - RADIO	13
235	PUBLIC TELEPHONE	-4
241	POLE LINES	107
241	MICROWAVE & MOBILE TOWERS	-3
242	AERIAL CABLE - COPPER	378
242	UNDERGROUND CABLE - COPPER	57
242	BURIED CABLE - COPPER	5
243	AERIAL WIRE	69
244	UNDERGROUND CONDUIT	1
261	F&OE - OTHER THAN MACHINES	-2
261	F&OE - MACHINES	5
262	OCE - LARGE PBX	-5
262	OCE - APPARATUS	-12
264	V&OWE - PKUPS & LT TRUCKS	-8
264	V&OWE - HEAVY TRUCKS	-7
264	V&OWE - SPEC MOTOR VEHICLES	-8
264	V&OWE - SHOP EQUIPMENT	-1
264	V&OWE - TOOLS & OWE	-10
264	V&OWE - TRAILERS	-4
264	V&OWE - MOBILE TOOLS	-1

Rates for all accounts and amortizations for COE-TSPS remain as prescribed in FCC Order 86-603, released January 22, 1987.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
GENERAL TELEPHONE COMPANY OF THE SOUTHWEST - OKLAHOMA

Effective January 1, 1987#

Rate Category	Description	Annual Amort. Expense ($000)
212	BUILDINGS	36
221	COE - ELECTRONIC-DIGITAL	74
221	COE - AUTO SWITCHING	134
221	COE - A.M.R.E.	23
221	COE - CIRCUIT	272
221	COE - RADIO	-38
235	PUBLIC TELEPHONE	4
241	POLE LINES	286
241	MICROWAVE & MOBILE TOWERS	-5
242	AERIAL CABLE - COPPER	284
242	UNDERGROUND CABLE - COPPER	34
242	UNDERGROUND CABLE - FIBER	1
242	BURIED CABLE - COPPER	109
242	SUBMARINE CABLE	-2
243	AERIAL WIRE	168
244	UNDERGROUND CONDUIT	4
261	F&OE - OTHER THAN MACHINES	-8
261	F&OE - MACHINES	0
262	OCE - LARGE PBX	-3
262	OCE - APPARATUS	-4
264	V&OWE - PKUPS & LT TRUCKS	-10
264	V&OWE - HEAVY TRUCKS	-11
264	V&OWE - SPEC MOTOR VEHICLES	-13
264	V&OWE - AERIAL CABLE CONST	-1
264	V&OWE - SHOP EQUIPMENT	-1
264	V&OWE - TOOLS & OWE	-10
264	V&OWE - TRAILERS	-1
264	V&OWE - MOBILE TOOLS	7

Rates for all accounts and amortizations for COE-Analog and COE-TSPS remain as prescribed in FCC Order 86-603, released January 22, 1987.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
NEVADA BELL

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	-85
221	COE - CIRCUIT - OTHER	172
221	COE - CIRCUIT - DDS	8
221	COE - RADIO	-158
221	COE - ELECTRONIC	508
231	STA APP - TELETYPEWRITER	14
231	STA APP - TELE & MISC	30
234	LARGE PBX - OTHER	30
234	LARGE PBX - DDS	0
235	PUBLIC TELEPHONE	-41
241	POLE LINES	640
242	AERIAL CABLE - EXCH	505
242	AERIAL CABLE - TOLL	37
242	UNDERGROUND CABLE - EXCH	401
242	UNDERGROUND CABLE - TOLL	45
242	BURIED CABLE - EXCH	270
242	BURIED CABLE - TOLL	86
243	AERIAL WIRE - TOLL	175
244	UNDERGROUND CONDUIT	18
261	F&OE - FURNITURE	4
261	COMPUTERS & AMA	12
262	OTHER COMM EQUIPMENT	121
264	VEHICLES & OTHER WORK EQPT	-161

Rates for all accounts remain as prescribed in FCC Order 87-32, released January 29, 1987.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
SOUTHERN BELL TELEPHONE AND TELEGRAPH CO. - FLORIDA

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	-686
221	COE - STEP-BY-STEP	4691
221	COE - CROSSBAR	20820
221	COE - CIRCUIT - OTHER	11987
221	COE - CIRCUIT - DDS	205
221	COE - ELECTRONIC - ANALOG	21556
221	COE - ELECTRONIC - DIGITAL	889
231	STA APP - TELETYPEWRITER	9
231	STA APP - TELE & MISC	331
234	LARGE PBX - OTHER	-612
234	LARGE PBX - DDS	-61
241	POLE LINES	-19
242	A. C. - EXCH - METALLIC	1341
242	A. C. - EXCH - OPTICAL	-9
242	A. C. - TOLL - METALLIC	35
242	A. C. - TOLL - OPTICAL	-4
242	U. C. - EXCH - METALLIC	4342
242	U. C. - EXCH - OPTICAL	50
242	U. C. - TOLL - METALLIC	175
242	U. C. - TOLL - OPTICAL	-21
242	B. C. - EXCH - METALLIC	24541
242	B. C. - EXCH - OPTICAL	17
242	B. C. - TOLL - METALLIC	576
242	B. C. - TOLL - OPTICAL	-16
242	SUBMARINE CABLE	68
244	UNDERGROUND CONDUIT	3456
261	F&OE - STOREROOM & OTHER	647
262	OTHER COMM EQUIPMENT	296
264	V&OWE - OTHER WORK EQPT	-586

Rates for all accounts remain as prescribed in FCC Order 86-603, released January 22, 1987.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
SOUTHERN BELL TELEPHONE AND TELEGRAPH CO. - SOUTH CAROLINA

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	560
221	COE - CIRCUIT - OTHER	3792
221	COE - CIRCUIT - DDS	4
221	COE - ELECTRONIC - ANALOG	3144
221	COE - ELECTRONIC - DIGITAL	28
231	STA APP - TELETYPEWRITER	-5
231	STA APP - TELE & MISC	3
241	POLE LINES	-957
242	A. C. - EXCH - METALLIC	1597
242	A. C. - EXCH - OPTICAL	-1
242	A. C. - TOLL - METALLIC	11
242	U. C. - EXCH - METALLIC	1164
242	U. C. - EXCH - OPTICAL	71
242	U. C. - TOLL - METALLIC	188
242	U. C. - TOLL - OPTICAL	-7
242	B. C. - EXCH - METALLIC	5084
242	B. C. - EXCH - OPTICAL	1
242	B. C. - TOLL - METALLIC	279
242	B. C. - TOLL - OPTICAL	-26
242	SUBMARINE CABLE	8
244	UNDERGROUND CONDUIT	90
261	F&OE - STOREROOM & OTHER	95
262	OTHER COMM EQUIPMENT	-152
264	V&OWE - OTHER WORK EQPT	-157

Rates for all accounts remain as prescribed in FCC Order 86-603, released January 22, 1987.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
SOUTHWESTERN BELL TELEPHONE COMPANY - OKLAHOMA

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	524
221	COE - STEP-BY-STEP	-255
221	COE - CROSSBAR	2753
221	COE - CIRCUIT - OTHER	7609
221	COE - CIRCUIT - DDS	-58
221	COE - RADIO	-142
221	COE - ELECTRONIC - ANALOG	3263
221	COE - ELECTRONIC - DIGITAL	468
231	STR APP - TELE & MISC	5
235	PUBLIC TELEPHONE	244
241	POLE LINES	887
242	AERIAL CABLE - EXCHANGE	3031
242	AERIAL CABLE - TOLL	65
242	UNDERGROUND CABLE - EXCHANGE	2020
242	UNDERGROUND CABLE - TOLL	98
242	BURIED CABLE - EXCHANGE	5783
242	BURIED CABLE - TOLL	241
242	SUBMARINE CABLE	2
243	AERIAL WIRE - EXCHANGE	613
244	UNDERGROUND CONDUIT	1
261	F&OE - FURN & MECHANICAL	-65
264	V&OWE - PASS & DELV CARS	-56
264	V&OWE - TRUCKS	-130
264	V&OWE - OTHER WORK EQPT	121

Rates for all accounts remain as prescribed in FCC Order 86-603, released January 22, 1987.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation and Amortization for
UNITED INTER-MOUNTAIN TELEPHONE COMPANY - VIRGINIA

Effective January 1, 1987#

	Rate Category Description	Annual Amort. Expense ($000)
212	BUILDINGS	0
221	COE - STEP-BY-STEP	130
221	COE - CROSSBAR	9
221	COE - CIRCUIT	183
221	COE - RADIO	-34
221	COE - MOBILE RADIO	1
221	COE - ELECTRONIC	25
221	COE - A. M. R. E.	34
231	STA APP - TELE & OTHER	-4
241	POLE LINES	-30
242	AERIAL CABLE	36
242	UNDERGROUND CABLE	27
242	BURIED CABLE	202
243	AERIAL WIRE	18
261	F&OE - FURN & OFFICE EQPT	1
264	V&OWE - MOTOR VEHICLES	-20

Rates for all accounts and amortizations for LPBX-Other remain as prescribed in FCC Order 86-603, released January 22, 1987.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

HOME BOX OFFICE, INC. File No. 5416-DSE-MP/L-87

For modification of earth station license (E-4063) for the provision of transborder service.

MEMORANDUM OPINION, ORDER AND AUTHORIZATION

Adopted: February 19, 1988 Released: March 1, 1988

By the Acting Chief, International Facilities Division:

1. The Commission has under consideration the application of Home Box Office, Inc. (HB0) filed pursuant to Title III of the Communications Act of 1934, as amended, requesting modification of its license for a satellite earth station (E-4063) at Hauppauge, New York. The application was placed on public notice August 26, 1987. No comments were received in response.

2. HBO seeks modification of its license to add points of communication via domestic satellites consulted with INTELSAT for the distribution of regular and special events video programming from the United States to certain specified transborder locations.[1] HBO assures that at the time of the proposed transmissions adequate copyright arrangements will exist to protect the interests of all affected copyright holders.

3. The receive-only services HBO proposes fall within our well-defined Transborder Satellite policy. This policy permits the use of domestic satellites for international public telecommunications services in certain exceptional circumstances where: 1) INTELSAT cannot provide the service; or 2) it would be clearly uneconomical and impractical to use the INTELSAT system for the service. Based on this criteria, the Commission has authorized over a hundred transborder applications. Intergovernmental coordinations and consultations under Article XIV(d) of the INTELSAT Agreement have been completed for the services, satellites and countries listed in Attachments 1 and 2. In applying these standards, the Commission has found that where receive-only services are involved, it would be clearly impractical and uneconomical to use the INTELSAT system since it would involve duplication of existing domestic networks. The Commission has stated that such duplication would be a waste of the available radio spectrum. In 1985, the Department of State informed the Commission that carriers seeking to provide transborder service must negotiate commercial arrangements with program owners that include the express consent of copyright holders.[2] Over time, the Commission has recognized that this requirement can present difficulties in the case of occasional and special events programming carried over superstations (i.e., WOR, WGN and WTBS) and premium pay stations (i.e., HBO and Showtime).

4. After consideration of HBO's application we find, with one exception, that it is consistent with our Transborder policy, copyright concerns expressed by the State Department and with the public interest. For the most part, the services involved fall into the receive-only video category. The Commission has previously recognized that it would be clearly uneconomical and impractical to provide those services using the INTELSAT system. We reaffirm these findings here. However, with respect to the special events programming requested by HBO, we note that such programming has been consulted under Article XIV(d) of the INTELSAT Agreement and authorized on a final basis by the Commission only for service between the U.S. and Mexico and Canada. Accordingly, we will limit our authorization of special events programming to these points. Finally, HBO has satisfied the copyright concerns expressed by the State Department in its March 1, 1985 letter. Specifically, HBO has states that at the time of any transmissions adequate contractual arrangements will exist to protect the interests of all affected copyright holders. HBO has indicated that its use of signal scrambling using the VideoCipher II System makes possible individual program level addressability. Based on these assertions, the State Department has informed us that as long as the United States has fulfilled its consultation obligations under the INTELSAT Agreement, it has no objection to final favorable action by the Commission on HBO's application.[3]

ORDERING CLAUSE

5. Accordingly, IT IS ORDERED that the application of Home Box Office, Inc., File No. 5416-DSE-MP/L-87, IS GRANTED and Home Box Office may provide video programming to the points specified in its application consistent with Attachments 1 and 2 without any further action by this Commission.

6. This authorization constitutes the final step for the provision of transborder services through domestic satellites with respect to the U.S. regulatory process. It does not, however, dispense with any requirements that may be imposed by the other countries involved.

7. This order shall not be construed as authorizing the distribution of programming where the appropriate copyright clearances have not been obtained.

8. This order is issued under Section 0.291 of the Commission's Rules on Delegations of Authority and is subject to review under Section 1.115 of the Rules on Practice and Procedure. Review by the full Commission may be requested within 30 days of the date of public notice of this order (see Rule 1.4(b)(2)) by writing Secretary, Federal Communications Commission, Washington, DC 20554, stating the factors warranting consideration and, if mailed, should be sent by certified mail in time to be received by the due date.

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Acting Chief, International Facilities
Division

FOOTNOTES

[1] HBO plans to serve: Anguilla, Antigua and Barbuda, Bahamas, Barbados, Belize, Bermuda, British Virgin Islands, Canada, Cayman Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Montserrat, Netherlands Antilles, Panama, St. Christopher-Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago and the Turks and Caicos Islands.

[2] *See* Letter dated March 1, 1985 from Diana Lady Dougan, Office of Coordinator International Communications and Information Policy to Mark S. Fowler, Chairman, FCC.

[3] *See* Letter from Diana Lady Dougan, U.S. Coordinator and Director, Department of State, to Chairman Dennis Patrick dated December 23, 1987.

ATTACHMENT 1

U.S. Satellites Consulted Pursuant to Article XIV(d)

Satellites

GALAXY I
GSTAR I
GSTAR II
COMSTAR D-4
SPACENET I
SPACENET III
SATCOM IR
SATCOM IIIR
SATCOM IV
SATCOM V
SATCOM K-1
WESTAR V
SBS V
SBS I
SBS II
SBS III
**SBS IV
TELSTAR 3A
TELSTAR 302
WESTAR IV
GALAXY III
*ASC-I
*ASC-II
WESTAR (USASAT 3C)

* Consulted for Canada and Mexico service only. See note 3 with respect to service to Jamaica.

** Consulted for Canada service only.

ATTACHMENT 2

SUMMARY OF INTELSAT CONSULTATION

Country	Service[s]	Satellite[s]
Anguilla	T.V. and audio receive-only	all Comstar, Satcom, Westar and Galaxy satellites listed in Attachment 1
Antigua and Barbuda	T.V., audio and data receive-only	all satellites listed in Attachment 1
Bahamas	T.V., audio and data receive-only	all satellites listed in Attachment 1
Barbados	T.V. receive-only	all Galaxy, Satcom and Westar satellites listed in Attachment 1
Belize	T.V., audio and data receive-only	all satellites listed in Attachment 1
Bermuda	T.V. and audio receive-only	all Comstar, Satcom, Westar and Galaxy satellites listed in Attachment 1
British Virgin Islands	T.V. and audio receive-only	all Comstar, Satcom, Westar and Galaxy satellites listed in Attachment 1
Canada	occasional pt.-to-pt. and full time video services and business services (including data and electronic document distribution, video teleconferencing and voice communications)	all satellites listed in Attachment 1 plus ANIK B, C1, C2, C3, D1 and D2
Cayman Islands	T.V. and audio receive-only	all Comstar, Satcom, Westar and Galaxy satellites listed in Attachment 1

Costa Rica	T.V. receive-only	all satellites listed in Attachment 1
Dominica	T.V., audio and data receive-only	all satellites listed in Attachment 1
Dominican Republic	T.V., audio and data receive-only	all satellites listed in Attachment 1
El Salvador	T.V. receive-only	all satellites listed in Attachment 1
Grenada	T.V., audio and data receive-only	all satellites listed in Attachment 1
Guatemala	T.V. and audio receive-only	all satellites listed in Attachment 1
Haiti	T.V., audio and data receive-only	all satellites listed in Attachment 1
Honduras	T.V. receive-only	all satellites listed in Attachment 1
Jamaica	T.V., audio and data receive-only (See note 3)	all satellites listed in Attachment 1
Mexico	Full-time and occasional T.V. services, receive-only audio and business services (including data and electronic document distribution, video teleconferencing and voice communications)	all satellites listed in Attachment 1 plus the Morelos I and II satellites
Monsterrat	T.V., and audio receive-only	all Comstar, Satcom, Westar and Galaxy satellites listed in Attachment 1
Netherlands Antilles	T.V. receive-only	Galaxy I, Satcom III-R and IV, Westar IV and V and Comstar D4
Panama	T.V., audio and data receive-only	all satellites listed in Attachment 1

St. Christopher-Nevis	T.V., audio and data receive-only	all satellites listed in Attachment 1
St. Lucia	T.V., audio and data receive-only	all satellites listed in Attachment 1
St. Vincent and the Grenadines	T.V., audio and data receive-only	all satellites listed in Attachment 1
Trinidad and Tobago	T.V. receive-only	all Galaxy, Satcom, Westar and Comstar satellites listed in Attachment 1
Turks & Caicos	T.V. and audio receive-only	all Comstar, Satcom, Westar and Galaxy satellites listed in Attachment 1
Venezuela	T.V. receive-only	all satellites listed in Attachment 1

Notes

1) With the exception of Mexico and Canada, which were consulted separately, all services (i.e. T.V., audio and data receive-only) can be provided to any point over any of the satellites listed in Attachment 1 even through only certain services and satellites were initially requested. This can be accomplished through notifying INTELSAT and no additional consultation is needed.

2) Attachment 1 contains only those satellites that have been technically consulted with INTELSAT. In all, the U.S. sought to consult with INTELSAT on the use of 29 domestic satellites. The remaining satellites are awaiting the completion of technical consultation.

3) With the exception of service to Jamaica, all services authorized to Latin American/Caribbean locations are receive-only (i.e. can be received as a by-product of or incidental to U.S. domestic transmissions). At its April 1987 Assembly of Parties meeting, INTELSAT approved the provision of private line business services between the contiguous United States and a teleport facility located in Montego Bay, Jamaica via the domestic satellite system of the American Satellite Company. On January 12, 1988 the U.S. Court of Appeals (D.C. Circuit) remanded the case to the Commission for further consideration.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

The Prescription of Revised Percentages of Depreciation pursuant to the Communications Act of 1934, as amended for:

AT&T COMMUNICATIONS - INTERSTATE DIVISION
The C & P Telephone Company of Maryland
Cincinnati Bell, Inc.
Citizens Utilities Company of California
Continental Telephone Company of California
Continental Telephone Company of New York, Inc.
GTE MTO Inc.
General Telephone Company of the Northwest, Inc.
General Telephone Company of the Southwest
Hawaiian Telephone Company
Michigan Bell Telephone Company
The Mountain States Telephone & Telegraph Co.
New Jersey Bell Telephone Company
New York Telephone Company
Northwestern Bell Telephone Company
Pacific Bell
Southwestern Bell Telephone Company
United Inter-Mountain Telephone Company
Wisconsin Bell, Inc.

ORDER

Adopted: January 14, 1988; Released: January 21, 1988

By the Commission: Commissioner Dennis dissenting in part.

I. INTRODUCTION

1. Nineteen domestic carriers have filed requests with this Commission for changes in their depreciation rates. In this Order we consider the reports underlying the carriers' filings and the comments of the interested parties, and we prescribe the depreciation rates and amortizations listed in the Appendix.

II. BACKGROUND

2. This Commission is authorized to prescribe depreciation rates for telephone common carriers as part of our broader ratemaking responsibilities under the Communications Act of 1934.[1] Depreciation is the mechanism through which the carriers are allowed to include in their operating expenses a percentage of their investment in equipment and facilities used to provide telephone service. Depreciation rates are prescribed on the basis of estimates of the equipments' expected rate of loss in value incurred in connection with its prospective retirement in the course of service from causes which can be forecast with a reasonable approach to accuracy.[2] Depreciation is a very important factor in the determination of a carrier's revenue requirement. It has two primary effects: First, the depreciation expense is included directly as a part of a carrier's revenue requirement; second, the accumulation of the depreciation expense, which is commonly described as the depreciation reserve,[3] is a deduction from the rate base and therefore is a determinant of the carrier's return and federal income tax.

III. REVIEW PROCEDURES

3. It has been our practice for many years to review and revise, as necessary, depreciation rates for approximately one-third of the larger FCC subject telephone carriers each year. In a 1983 depreciation order[4] we discussed the increased volatility of depreciation rates resulting from the use of new procedures and concluded that it may be necessary to update rates annually to keep them in line with accounting activity *(i.e.,* plant additions, retirements, and net salvage). In that order, we established streamlined study procedures whereby carriers could file for the annual update of rates between triennial reviews using the same equipment life and salvage estimates that underlie prescribed rates. In 1987 the nineteen carriers listed in the caption filed for annual updates using these streamlined procedures. In addition, all the carriers listed in the caption, except Citizens Utilities of California, filed for amortization of reserve imbalances for the majority of their accounts.

4. Inasmuch as the rates under consideration are based primarily upon equipment life and salvage estimates underlying prescribed rates rather than revised estimates based upon new studies, much of the time and effort normally expended in a review was not required here. Furthermore, since these estimates had been discussed at length in prior three-way meetings,[5] it was not necessary to conduct such meetings for these carriers. Instead the questions that were raised during the review process were discussed in correspondence and telephone conversations.

5. Following the discussions with the carriers and state commissions, and after reevaluating its preliminary recommendations, our staff issued a Public Notice dated October 8, 1987, entitled, "Annual Updates - Depreciation Rate Prescriptions Proposed for Domestic Telephone Companies - Notice of Opportunity to Comment." The Bureau transmitted to each carrier and respective state commission a copy of the Public Notice and a list of the parameters used to calculate its recommended depreciation rates and amortizations. Comments were filed by the Minnesota Department of Public Service, Mountain Bell, New York Telephone, Northwestern Bell, Pacific Northwest Bell, Southwestern Bell and Western Union.

IV. DISCUSSION

6. The issues raised during the review process relate to the use of amortizations, the effective date of the new rates and amortizations, and the life and salvage parameters for two of AT&T-Interstate Division's (AT&T-ISD's) accounts. In our *Amortization NPRM* [6] we requested comments on our proposed amortization policy as well as the

effective date for this policy. These issues were addressed and resolved in our *Amortization Order* [7] and, therefore, will not be addressed here.

A. Life and Salvage Estimates

7. AT&T-ISD submitted an annual update report using our steamlined procedures in all accounts except COE-Circuit and COE-Radio. It proposed revised life and salvage parameters for these two accounts. After reviewing these proposals in detail the Bureau determined that a modification in the life and salvage parameters underlying the currently prescribed rates was in order.[8] Inasmuch as agreement was reached regarding the new life and salvage parameters, we adopt their use and the rates and amortizations derived therefrom.

8. The Bureau reviewed the annual update proposals of the nineteen carriers listed in the caption and determined that their proposals were based upon the life and salvage parameters underlying the currently prescribed rates, and the accounting activity (i.e., plant additions and retirements, and net salvage amounts) that has occurred since the effective dates of the prior reports. Further, the Bureau determined that the proposed rates and amortizations were calculated in accordance with both our annual update procedures and our depreciation methods. No objections were raised for those carriers and accounts, and we find that the depreciation rate reports, analysis, and discussions justify the continued use of the parameters underlying the currently prescribed rates. Accordingly, we adopt the rates and amortizations using these parameters.

B. Effective Dates

9. Our *Amortization Order* established a five-year amortization program effective January 1, 1987. Accordingly, we adopt January 1, 1987 as the effective date of the rates and amortizations in the Appendix to this Order. As stated in the *Amortization Order*, a carrier disadvantaged by this effective date may petition for waiver of the requirement. The Common Carrier Bureau, via delegated authority (*Amortization Order* at para. 27), will act on such petitions.

C. Submission of Whole - Life Depreciation Parameters

10. In the depreciation prescription orders which we have approved since our decision in *Property Depreciation*,[9] we have required that depreciation filings include whole-life rates so that we could determine the size of the depreciation reserve imbalance and the speed with which our actions were resolving the imbalance. Because of our continued interest in these matters, we require carriers named herein to file whole-life rates that are consistent with the prescribed rates until notified to the contrary.

D. Conclusion

11. Having considered the carriers' annual update proposals, the views and recommendations of the states, the responses to the Public Notice, and the recommendations of the Bureau, we adopt the rates, amortizations, and effective dates listed in the Appendix.

V. ORDERING CLAUSE

12. ACCORDINGLY IT IS ORDERED pursuant to Sections 1, 4(i), 201-205 and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154(i), 201-205 and 220(b), that the percentages of depreciation and amortization amounts set forth in the Appendix to this Order ARE PRESCRIBED effective on the dates listed.

FEDERAL COMMUNICATIONS COMMISSION

H. Walker Feaster III
Acting Secretary

ATTACHMENT: APPENDIX

FOOTNOTES

[1] 47 U.S.C. Section 220(b) (1982)

[2] 47 C.F.R. Section 31.01-3(n)

[3] The depreciation reserve is the accumulation of the depreciation expenses plus net salvage less retirements.

[4] The Prescription of Revised Percentages of Depreciation Pursuant to Section 220(b) of the Communications Act of 1934, as amended for: AT&T -- Long Lines Department, 96 FCC 2d 257 (1983).

[5] It has been our practice to hold three-way meetings with carrier representatives and staff members from state commissions to discuss and resolve many of the issues raised in the carrier's depreciation rate filing.

[6] Amortization of Depreciation Reserve Imbalances of Local Exchange Carriers, *Notice of Proposed Rule Making*, 2 FCC Rcd 6473 (1987) (*Amortization NPRM*)

[7] Amortization of the Depreciation Reserve Imbalances of Local Exchange Carriers, FCC 88-6 (released January 21, 1988) (*Amortization Order*). Because the issues raised by the parties commenting herein are resolved in the *Amortization Order*, they will not be summarized in this *Order*.

[8] As stated in the Public Notice, AT&T-ISD's proposal was not included in the attachment because the Bureau had not completed its review. Thus, the Public Notice noted only that AT&T-ISD had filed a proposal. The Bureau has now completed its review of that filing, and has concluded that changes are required in life and salvage values for two of its accounts. The rates in the Appendix to this Order reflect those changes.

[9] Amendment of Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies), 83 FCC 2d 267 (1980) *Property Depreciation*), reconsideration, 87 FCC 2d 916 (1981), Supplemental Opinion and Order, 87 FCC 2d 1112 (1981).

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
AT&T COMMUNICATIONS - INTERSTATE DIVISION

Effective January 1, 1987#

Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate
	(years)	(%)	(%)	(%)
A	B	C	D	E
212 BUILDINGS	20.0	4.0	36.5	3.0
221 COE-MANUAL	4.5	-11.0	73.2	8.4
221 COE-CROSSBAR	1.1	0.0	76.8	21.1
221 COE-CIRCUIT	5.9	-5.0	35.0	11.9
221 COE-DDS CIRCUIT	7.5	-4.0	32.7	9.5
221 COE-RADIO	5.4	-10.0	46.7	11.7
221 COE-ELECTRONIC	12.1	1.0	26.4	6.0
221 COE-SAT RADIO	7.2	0.0	24.2	10.5
234 LARGE PBX	6.5	-2.0	60.1	6.4
241 POLE LINES	7.2	-29.0	78.1	7.1
242 AERIAL CABLE	7.1	8.0	57.3	4.9
242 UNDERGROUND CABLE	15.9	-2.0	35.8	4.2
242 BURIED CABLE	13.0	-4.0	52.1	4.0
242 SUBMARINE CABLE	12.8	-2.0	47.9	4.2
243 AERIAL WIRE	8.8	-73.0	127.2	5.2
244 UNDERGROUND CONDUIT	41.0	-6.0	9.3	2.4
261 FURN & OFF EQUIP	16.4	4.0	17.9	4.8
261 COMPUTERS	5.4	10.0	29.4	11.2
262 OTHER COMM EQUIP	6.0	0.0	22.8	12.9
264 MOTOR VEHICLES	4.1	14.0	48.7	9.1
264 TOOLS & OWE	10.5	3.0	29.4	6.4

* For accounts with amortization of reserve imbalances Column (D) contains the book reserve adjusted to recognize the previously ordered amortization.

Amortizations ordered in FCC 87-32, released January 29, 1987, are continued.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
THE CHESAPEAKE & POTOMAC TELEPHONE COMPANY OF MARYLAND

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	31.0	8.0	18.4	2.4	479
221	COE - STEP-BY-STEP	2.3	-5.0	82.8	9.7	0
221	COE - CROSSBAR	2.1	-6.0	70.0	17.1	0
221	COE - CIRCUIT - NON - DED	7.5	-1.0	30.2	9.4	5456
221	COE - CIRCUIT DDS	8.5	10.0	21.2	8.1	-123
221	COE - RADIO	11.3	10.0	22.5	6.0	-165
221	COE - ELECTRONIC ANALOG	10.8	0.0	30.4	6.4	7020
221	COE - ELECTRONIC DIGITAL	12.7	5.0	7.6	6.9	760
231	STA APP - TELE & MISC	5.8	0.0	49.1	8.8	-609
234	LARGE PBX - OTHER	4.5	-7.0	46.9	13.4	0
234	LARGE PBX - DDS	5.3	2.0	47.6	9.5	-108
235	PUBLIC TELEPHONE	4.2	5.0	51.0	10.5	0
241	POLE LINES	22.0	-49.0	34.1	5.2	-1433
242	AERIAL CABLE	15.4	-21.0	40.7	5.2	6933
242	UNDERGROUND CABLE	19.0	-26.0	41.2	4.5	7956
242	BURRIED CABLE	18.4	-11.0	29.3	4.4	3939
242	SUBMARINE CABLE	14.7	-3.0	37.8	4.4	0
244	UNDERGROUND CONDUIT	47.0	0.0	18.2	1.7	65
261	F&OE - FURNITURE	11.1	7.0	15.4	7.0	-147
261	F&OE - COMPUTERS	3.1	13.0	38.2	15.7	0
262	OTHER COMM EQUIPMENT	4.3	5.0	53.9	9.6	0
264	V&OWE - MOTOR VEHICLES	4.5	15.0	36.9	10.7	0
264	V&OWE - OTHER WORK EQPT	13.3	3.0	22.7	5.6	0

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
CINCINNATI BELL TELEPHONE COMPANY - KENTUCKY

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	26.0	-4.0	30.9	2.8	25
221	COE - STEP-BY-STEP	0.8	-4.0	39.7	80.4	0
221	COE - CROSSBAR	1.4	-4.0	42.5	43.9	0
221	COE - CIRCUIT DDS	6.6	-4.0	31.7	11.0	0
221	COE - CIRCUIT NON-DDS	8.3	8.0	27.0	7.8	106
221	COE - RADIO	10.0	-2.0	49.9	5.2	2
221	COE - ELECTRONIC ANALOG	16.8	3.0	25.0	4.3	11
221	COE - ELECTRONIC DIGITAL	13.9	3.0	12.9	6.1	208
231	STA APP - TELETYPEWRITER	2.6	2.0	55.5	16.3	0
231	STA APP - TELE & MISC	3.7	4.0	76.9	5.2	0
234	LARGE PBX - OTHER	1.8	-5.0	88.0	9.4	0
234	LARGE PBX - ELECTRONIC	3.1	-1.0	76.4	7.9	0
234	LARGE PBX - DDS	2.7	-1.0	62.5	14.3	0
235	PUBLIC TELEPHONE	6.4	-50.0	69.7	12.5	53
241	POLE LINES	18.4	-16.0	25.5	4.9	-276
242	AERIAL CABLE-HOUSE & BLOCK	16.0	-59.0	43.4	7.2	106
242	AERIAL CABLE-AERIAL CABLE	17.5	-13.0	36.9	4.3	-28
242	UNDERGROUND CABLE	23.0	-32.0	38.6	4.1	440
242	BURIED CABLE	26.0	-7.0	20.1	3.3	1
243	AERIAL WIRE	7.6	-40.0	42.6	12.8	29
244	UNDERGROUND CONDUIT	42.0	-15.0	23.2	2.2	93
261	F&OE - FURNITURE	14.0	5.0	20.1	5.4	3
261	F&OE - COMPUTERS	5.4	5.0	18.4	14.2	-1
262	OTHER COMM EQUIPMENT	6.3	2.0	26.3	11.4	-37
264	V&OWE - MOTOR VEHICLES	5.5	27.0	26.8	8.4	-17
264	V&OWE - OTHER WORK EQPT	15.9	6.0	9.1	5.3	-12

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
CINCINNATI BELL TELEPHONE COMPANY - OHIO/INDIANA

Effective January 1, 1987

Rate Category	Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	33.0	-1.0	20.9	2.4	344
221	COE - MANUAL	2.0	-13.0	79.5	16.8	0
221	COE - STEP-BY-STEP	-	-	-	-	●
221	COE - CROSSBAR	2.4	-4.0	64.9	16.3	0
221	COE - CIRCUIT DDS	7.1	-4.0	33.0	10.0	15
221	COE - CIRCUIT NON-DDS	8.3	8.0	27.3	7.8	988
221	COE - RADIO	9.3	-5.0	40.0	7.0	-20
221	COE - ELECTRONIC ANALOG	12.5	3.0	30.9	5.3	1893
221	COE - ELECTRONIC DIGITAL	13.9	3.0	7.7	6.4	346
231	STA APP - TELETYPEWRITER	3.0	2.0	34.2	21.3	0
231	STA APP - TELE & MISC	3.7	4.0	58.4	10.2	0
234	LARGE PBX - OTHER	1.8	-5.0	94.6	5.8	0
234	LARGE PBX - ELECTRONIC	3.1	-1.0	61.5	12.7	0
234	LARGE PBX - DDS	3.8	-1.0	30.8	18.5	0
235	PUBLIC TELEPHONE	6.4	-36.0	60.7	11.8	172
241	POLE LINES	18.8	-3.0	26.4	4.1	-566
242	AERIAL CABLE - HOUSE & BLO	16.0	-57.0	45.7	7.0	741
242	AERIAL CABLE - AERIAL CABL	17.5	-20.0	39.9	4.6	339
242	UNDERGROUND CABLE	24.0	-12.0	31.3	3.4	924
242	BURIED CABLE	26.0	-3.0	19.3	3.2	-87
242	SUBMARINE CABLE	14.3	0.0	64.3	2.5	-1
243	AERIAL WIRE	8.8	-47.0	51.1	10.9	-24
244	UNDERGROUND CONDUIT	43.0	-15.0	29.7	2.0	451
261	F&OE - FURNITURE	17.5	5.0	11.6	4.8	-10
261	F&OE - COMPUTERS	4.9	5.0	45.9	10.0	0
262	OTHER COMM EQUIPMENT	5.6	2.0	27.1	12.7	-401
264	V&OWE - MOTOR VEHICLES	4.7	20.0	36.5	9.3	0
264	V&OWE - OTHER WORK EQPT	15.2	6.0	13.3	5.3	-35

● Amortization ordered in FCC 85-656, released December 31, 1985, is continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

\# Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
CITIZENS UTILITIES COMPANY OF CALIFORNIA

Effective January 1, 1987

Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	(years)	(%)	(%)	(%)	($)
A	B	C	D	E	F
212 BUILDINGS	38.0	0.0	11.6	2.3	-45
221 STEP BY STEP COE	0.5	-5.0	75.0	60.0	0
221 CIRCUIT COE	8.4	3.0	26.1	8.4	-192
221 RADIO COE	11.1	0.0	23.4	6.9	-77
221 ELECTRONIC COE	13.0	1.0	20.0	6.1	-271
231 STATION APP OTHER	6.4	0.0	32.6	10.5	-2
234 EMERG REPORTING EQ	5.4	0.0	51.8	8.9	-1
235 PUB TEL EQ COIN	6.7	1.0	48.4	7.6	-4
235 PUB TEL EQ COINLESS	8.8	1.0	16.8	9.3	0
235 PUB TEL EQ BOOTHS	11.3	1.0	37.5	5.4	0
241 POLE LINES	21.0	-70.0	42.5	6.1	-58
242 AERIAL CABLE	16.7	-16.0	27.9	5.3	196
242 UNDERGROUND CABLE	20.0	-4.0	20.8	4.2	101
242 BURIED CABLE	18.0	-8.0	23.5	4.7	81
243 AERIAL WIRE	8.0	-70.0	92.3	9.7	132
244 UNDERGROUND CONDUIT	47.0	-2.0	9.8	2.0	-47
261 FURN AND OFFICE EQ	17.6	3.0	19.4	4.4	-34
261 COMPUTERS	8.3	0.0	14.4	10.3	4
262 OTHER COM EQ	9.5	0.0	45.7	5.7	-6
262 OTHER COM EQ LG PBX	5.4	0.0	48.6	9.5	-7
264 VEHICLES	4.7	12.0	43.8	9.4	0
264 TOOLS	10.3	4.0	27.3	6.7	-21

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
CONTINENTAL TELEPHONE COMPANY OF CALIFORNIA

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	18.7	-4.0	34.5	3.7	2
221	COE - OTHER	3.1	1.0	52.1	15.1	0
221	COE - SWITCHBOARD	2.0	-1.0	74.6	13.2	0
221	COE - MICROWAVE	7.8	-1.0	47.0	6.9	334
221	COE - CIRCUIT	9.0	2.0	27.4	7.8	-353
221	COE - ELECTRONIC DIGITAL	9.4	0.0	22.3	8.3	988
221	COE - ELEC DIGITAL VDR	-	-	49.9	-	●
231	STA APP - OTHER	6.8	0.0	32.0	10.0	57
231	STA APP - CPE	-	-	64.2	-	●
234	LARGE PBX	-	-	46.9	-	●
235	PUBLIC TELEPHONE	5.9	0.0	41.0	10.0	80
241	POLE LINES	15.3	-20.0	32.6	5.7	500
242	AERIAL CABLE & DROP	12.3	-10.0	39.9	5.7	888
242	UNDERGROUND CABLE	22.0	-4.0	22.3	3.7	177
242	BURIED CABLE	20.0	-1.0	20.2	4.0	-64
242	SUBMARINE CABLE	9.5	0.0	62.0	4.0	-1
243	AERIAL WIRE	2.4	-30.0	14.5	48.1	0
244	UNDERGROUND CONDUIT	39.0	-5.0	21.4	2.1	15
261	F&OE - FURNITURE	18.1	8.0	12.7	4.4	116
261	F&OE - INFO SYSTEMS	4.5	0.0	22.6	17.2	0
262	OTHER COMM EQUIPMENT	7.5	0.0	27.2	9.7	-19
264	VEHICLE & WORK EQ	8.9	20.0	25.2	6.2	-466
275	AIRCRAFT	2.0	48.0	21.4	15.3	0

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

● Amortization ordered in FCC 85-656, released December 31, 1985, is continued.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
CONTINENTAL TELEPHONE COMPANY OF NEW YORK, INC

Effective January 1, 1987

Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	(years)	(%)	(%)	(%)	($)
A	B	C	D	E	F
212 BUILDINGS	26.0	2.0	27.2	2.7	-40
212 LEASEHOLD IMPROVEMENT	5.8	0.0	42.6	9.9	26
211 COE SXS & OTHER	1.7	3.0	70.0	15.9	0
221 COE MOBILE TELEPHONE	0.5	0.0	89.7	20.6	0
221 COE SWITCHBOARD	3.5	0.0	83.2	4.8	0
221 COE ANALOG ELECTRON	5.0	0.0	47.0	10.6	0
221 COE MICROWAVE	12.9	0.0	14.0	6.7	-12
221 COE CIRCUIT	7.9	5.0	29.2	8.3	265
221 COE DIGITAL ELECTRO	12.4	0.0	15.6	6.8	269
231 HARD OF HEARING	-	-	18.2	12.1	0
235 PUBLIC TELEPHONE	5.5	0.0	45.0	10.0	-46
241 POLE LINE	18.0	-30.0	32.5	5.4	125
242 AERIAL CABLE	18.5	-16.0	33.5	4.5	572
242 UNDERGROUND CABLE	20.0	-15.0	32.9	4.1	57
242 BURIED CABLE	22.0	-2.0	18.9	3.8	259
242 SUBMARINE CABLE	17.3	-2.0	21.8	4.6	-2
243 AERIAL WIRE	3.2	-52.0	10.7	44.2	0
244 UNDERGROUND CONDUIT	31.0	-3.0	21.1	2.6	-54
261 FURNITURE & OFFICE	15.5	10.0	26.6	4.1	-35
261 INFORMATION SYSTEMS	5.3	5.0	11.1	15.8	13
262 OFFICIAL TERMINAL EQ	5.5	0.0	40.9	10.7	-30
264 OTHER WORK EQ	10.1	6.0	30.7	6.3	-208

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
GTE MTO INC - INDIANA

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	36.0	5.0	9.8	2.4	-663
221	MANUAL SW	4.2	-4.0	37.5	15.8	0
221	ELECTRO. SW	4.2	-1.0	49.4	12.3	0
221	ELEC SW SXS#2	-	-1.0	-380.4	-	●
221	AMRE	3.8	-1.0	-0.2	26.6	0
221	CIRCUIT	7.0	4.0	34.1	8.8	2644
221	RADIO	6.1	-4.0	33.4	11.6	95
221	ANALOG SW	8.7	13.0	35.5	5.9	1437
221	DIGITAL SW	13.0	4.0	11.4	6.5	-325
235	COIN/CNLS	3.4	1.0	55.1	12.9	0
241	POLE LINES	15.1	-59.0	53.3	7.0	131
242	AERIAL CABLE	14.0	-30.0	49.2	5.8	2046
242	FO AEWR CA	21.0	-2.0	12.8	4.3	-16
242	UG CABLE	23.0	-22.0	37.0	3.7	1087
242	FO UG CA	25.0	-2.0	9.4	3.7	-11
242	BURIED CABLE	14.2	-12.0	32.5	5.6	1498
242	FO BRD CA	21.0	0.0	16.0	4.0	-73
242	SUB CABLE	5.1	0.0	73.3	5.2	-1
243	AERIAL WIRE	4.3	-90.0	96.5	21.7	0
244	UG CONDUIT	43.0	-10.0	27.0	1.9	-34
261	F&OE	10.4	4.0	16.1	7.7	281
261	COMPUTERS	3.7	5.0	25.5	18.8	0
262	CO. OFL EQ	4.8	1.0	31.4	14.1	0
264	MOTOR VEHICLES	3.2	17.0	47.2	11.2	0
264	AIRCRAFT	4.9	65.0	10.4	5.0	0
264	MV SHOP EQ	13.6	7.0	25.4	5.0	-11
264	TOOL & OWE	13.1	10.0	25.2	4.9	65

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

● Amortization of monthly net book over a two year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
GTE MTO INC - MICHIGAN

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	29.0	-3.0	30.1	2.5	-68
221	MAN SW	3.5	-4.0	15.3	25.3	0
221	ELECTRO SW	4.5	2.0	39.5	13.0	0
221	AMRE SW	3.1	-2.0	61.3	13.1	0
221	CIRCUIT	7.9	4.0	37.1	7.5	1125
221	RADIO	7.8	-3.0	38.7	8.2	-18
221	ANALOG SW	8.5	5.0	39.1	6.6	-407
221	DIGITAL SW	12.9	0.0	10.4	6.9	-115
221	ETS4-TRS4 SW	0.5	-4.0	104.0	0.0	0
235	COIN/COINLESS	-	-	17.3	11.9	0
241	POLE LINES	14.4	-60.0	56.5	7.2	498
242	EMB STA CONN DRP	-	-	33.6	5.0	0
242	AERIAL CABLE	19.0	-22.0	42.1	4.2	948
242	FO AER CA	23.0	-22.0	5.1	5.1	1
242	UG CABLE	27.0	-15.0	29.5	3.2	44
242	FO UG CA	27.0	-15.0	5.1	4.1	0
242	BURIED CABLE	18.5	-7.0	27.8	4.3	250
242	FO BRD CA	19.6	-7.0	23.1	4.3	44
242	SUB CABLE	9.9	-2.0	44.0	5.9	16
243	AERIAL WIRE	-	-50.0	-67.1	-	●
244	UG CONDUIT	44.0	-8.0	20.8	2.0	56
261	FURN & OFC EQ	11.8	5.0	24.0	6.0	71
261	COMPUTERS	4.4	5.0	27.6	15.3	0
262	CO OFFICIAL	-	-	52.7	14.0	0
264	MOTOR VEHICLES	3.9	12.0	46.3	10.7	0
264	AIRCRAFT	0.5	40.0	60.0	0.0	0
264	MV SHOP EQ	7.4	5.0	31.7	8.6	1
264	TOOL & OWE	6.8	5.0	40.7	8.0	-86

● Amortization of monthly net book over a two year period.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
GENERAL TELEPHONE COMPANY OF THE NORTHWEST - IDAHO

Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	24.0	9.0	19.0	3.0	50
221	COE - MANUAL	4.5	-3.0	2.7	22.3	0
221	COE - STEP-BY-STEP	6.2	-4.0	53.4	8.2	1266
221	COE - ELECTRONIC DIGITAL	13.4	3.0	16.1	6.0	298
221	COE - AUTOMATIC MESS. REC.	5.3	0.0	60.5	7.5	101
221	COE - CIRCUIT	8.2	7.0	32.7	7.4	325
221	COE - RADIO	9.0	0.0	27.3	8.1	18
231	STA APP - TELETYPEWRITER	-	-	77.8	10.4	0
231	STA APP - TELE & MISC	-	-	45.4	12.9	0
234	LARGE PBX - OTHER	-	-	76.2	18.0	0
235	PUBLIC TELEPHONE	4.9	0.0	61.4	7.9	0
235	COINLESS TELEPHONES	4.9	0.0	33.2	13.6	0
241	POLE LINES	10.6	-50.0	58.0	8.7	221
242	AERIAL CABLE	15.6	-21.0	31.9	5.7	73
242	UNDERGROUND CABLE	22.0	-12.0	19.9	4.2	42
242	BURIED CABLE	21.0	-10.0	24.4	4.1	289
242	SUBMARINE CABLE	9.9	0.0	46.8	5.4	18
243	AERIAL WIRE	7.6	-50.0	79.8	9.2	34
244	UNDERGROUND CONDUIT	40.0	0.0	20.0	2.0	6
261	F&OE - FURNITURE	14.5	5.0	11.4	5.8	-4
261	F&OE - OFFICE MACHINES	7.6	5.0	30.9	8.4	-5
261	F&OE - COMPUTERS	3.9	10.0	22.9	17.2	0
262	OTHER COMM EQUIPMENT	4.1	0.0	44.1	13.6	0
264	V&OWE - MOTOR VEHICLES	4.3	15.0	29.3	13.0	0
264	V&OWE - SHOP EQUIPMENT	8.9	10.0	34.5	6.2	3
264	V&OWE - OTHER WORK EQPT	9.5	10.0	24.7	6.9	-20

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
GENERAL TELEPHONE COMPANY OF THE NORTHWEST - MONTANA

Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	22.0	9.0	26.4	2.9	-3
221	COE - STEP-BY-STEP	6.3	-1.0	51.7	7.8	-2
221	COE - AUTOMATIC MESS. REC.	6.3	-1.0	55.6	7.2	-4
221	COE - CIRCUIT	9.2	4.0	31.5	7.0	3
221	COE - RADIO	8.0	-5.0	21.7	10.4	20
231	STA APP - TELETYPEWRITER	-	-	30.6	10.5	0
231	STA APP - TELE & MISC	-	-	70.1	13.4	0
235	PUBLIC TELEPHONE	4.1	0.0	74.4	6.2	0
241	POLE LINES	7.9	-60.0	80.5	10.1	40
242	AERIAL CABLE	11.9	-35.0	51.5	7.0	28
242	UNDERGROUND CABLE	19.9	-20.0	28.2	4.6	2
242	BURIED CABLE	21.0	-15.0	25.6	4.3	22
243	AERIAL WIRE	7.2	-65.0	43.1	16.9	14
244	UNDERGROUND CONDUIT	46.0	0.0	6.1	2.0	0
261	F&OE - FURNITURE	14.5	5.0	11.4	5.8	-1
261	F&OE - OFFICE MACHINES	7.6	5.0	30.9	8.4	-2
261	F&OE - COMPUTERS	3.9	10.0	0.0	23.1	0
262	OTHER COMM EQUIPMENT	4.1	0.0	55.5	10.9	0
264	V&OWE - MOTOR VEHICLES	3.7	14.0	55.4	8.3	0
264	V&OWE - OTHER WORK EQPT	9.5	5.0	26.8	7.2	5

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
GENERAL TELEPHONE COMPANY OF THE NORTHWEST - OREGON

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	31.0	13.0	17.1	2.3	77
221	COE - MANUAL	1.4	-3.0	37.7	46.6	0
221	COE - STEP-BY-STEP	1.8	-1.0	53.8	26.2	0
221	COE - ELECTRONIC ANALOG	4.7	-1.0	4.5	20.5	0
221	COE - ELECTRONIC DIGITAL	12.9	2.0	13.2	6.6	118
221	COE - AUTOMATIC MESS. REC.	1.2	0.0	23.0	64.2	0
221	COE - CIRCUIT	7.5	7.0	33.1	8.0	589
221	COE - RADIO	8.2	0.0	46.2	6.6	-28
231	STA APP - TELETYPEWRITER	-	-	70.7	9.6	0
231	STA APP - TELE & MISC	-	-	55.4	15.4	0
234	LARGE PBX - OTHER	-	-	78.0	15.0	0
235	PUBLIC TELEPHONE	4.1	0.0	70.0	7.3	0
235	COINLESS TELEPHONES	4.1	0.0	8.0	22.4	0
241	POLE LINES	14.7	-65.0	61.4	7.0	343
242	AERIAL CABLE	14.4	-35.0	45.2	6.2	1172
242	UNDERGROUND CABLE	21.0	-20.0	23.1	4.6	226
242	BURIED CABLE	18.1	-10.0	26.3	4.6	159
242	SUBMARINE CABLE	9.9	0.0	46.8	5.4	10
243	AERIAL WIRE	8.8	-65.0	89.3	8.6	93
244	UNDERGROUND CONDUIT	43.0	0.0	12.2	2.0	-47
261	F&OE - FURNITURE	14.5	15.0	9.4	5.2	-48
261	F&OE - OFFICE MACHINES	9.1	10.0	25.4	7.1	-15
261	F&OE - COMPUTERS	3.9	10.0	27.9	15.9	0
262	OTHER COMM EQUIPMENT	4.1	0.0	54.3	11.1	0
264	V&OWE - MOTOR VEHICLES	4.1	17.0	40.0	10.5	0
264	V&OWE - SHOP EQUIPMENT	8.9	7.0	36.3	6.4	1
264	V&OWE - OTHER WORK EQPT	9.5	7.0	26.3	7.0	-14

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
GENERAL TELEPHONE COMPANY OF THE NORTHWEST - WASHINGTON

Effective January 1, 1987

Rate Category	Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	26.0	14.0	19.5	2.6	492
221	COE - MANUAL	6.2	-3.0	31.1	11.6	500
221	COE - STEP-BY-STEP	-	-3.0	14.5	-	●
221	COE - ELECTRONIC ANALOG	9.1	2.0	33.4	7.1	1434
221	COE - ELECTRONIC DIGITAL	13.0	5.0	14.3	6.2	65
221	COE - AUTO. MESS. REC.	-	-2.0	-40.9	-	●
221	COE - CIRCUIT	8.5	7.0	26.7	7.8	995
221	COE - RADIO	7.5	0.0	32.7	9.0	81
231	STA APP - TELETYPEWRITER	-	-	35.6	11.1	0
231	STA APP - TELE & MISC	-	-	51.3	14.1	0
234	LARGE PBX - OTHER	-	-	74.9	17.2	0
235	PUBLIC TELEPHONE	4.1	0.0	65.8	8.3	0
235	COINLESS TELEPHONES	4.1	0.0	6.0	22.9	0
241	POLE LINES	17.0	-76.0	57.7	7.0	749
242	AERIAL CABLE	14.9	-15.0	30.8	5.7	455
242	UNDERGROUND CABLE	19.6	-20.0	29.5	4.6	1031
242	BURIED CABLE	18.6	-5.0	26.1	4.2	802
242	SUBMARINE CABLE	9.9	0.0	46.8	5.4	-13
243	AERIAL WIRE	6.2	-60.0	87.9	11.6	28
244	UNDERGROUND CONDUIT	41.0	0.0	18.0	2.0	87
261	F&OE - FURNITURE	14.5	5.0	11.4	5.8	-191
261	F&OE - OFFICE MACHINES	9.1	5.0	27.5	7.4	-6
261	F&OE - COMPUTERS	3.9	10.0	33.6	14.5	0
262	OTHER COMM EQUIPMENT	4.1	0.0	51.7	11.8	0
264	V&OWE - MOTOR VEHICLES	4.1	19.0	34.6	11.3	0
264	AIRCRAFT	5.0	70.0	0.0	6.0	0
264	V&OWE - SHOP EQUIPMENT	8.9	5.0	37.1	6.5	5
264	V&OWE - OTHER WORK EQPT	9.5	5.0	26.8	7.2	125

● Amortization of monthly net book over a three year period.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
GENERAL TELEPHONE COMPANY OF THE SOUTHWEST - ARKANSAS
Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	23.0	1.0	26.4	3.2	-10
221	COE-ELECTRONIC DIGITAL	15.5	0.0	8.7	5.9	14
221	COE-MANUAL SWITCHING	-	-	100.5	19.1	0
221	COE-AUTOMATIC SWITCHING	8.2	-4.0	45.8	7.1	-435
221	COE-AUTO MSSGE RECORDING	8.2	-1.0	37.4	7.8	-125
221	COE-CIRCUIT	9.7	10.0	24.6	6.7	167
221	COE-RADIO	11.6	1.0	26.1	6.3	2
235	PUBLIC TELEPHONE	9.4	0.0	31.2	7.3	0
231	STATION APPARATUS	-	-	49.5	12.8	0
231	SMALL PBX	-	-	100.0	7.9	0
231	TELETYPE EQ	-	-	48.3	6.8	0
234	LARGE PBX - DIGITAL	-	-	49.1	10.2	0
234	LARGE PBX - OTHER	-	-	102.0	20.6	0
234	E911 EQ	5.0	0.0	0.0	20.0	0
241	POLE LINES	15.9	-75.0	60.8	7.2	173
241	TOWERS	11.1	-15.0	54.2	5.5	0
242	A. C. - METALLIC	15.3	-31.0	44.5	5.7	222
242	A. C. - FIBER	17.3	-2.0	2.9	5.7	0
242	U. C. - METALLIC	23.0	-16.0	24.0	4.0	10
242	U. C. - FIBER	16.0	-2.0	5.0	6.1	0
242	B. C. - METALLIC	15.5	-9.0	32.2	5.0	491
242	B. C. - FIBER	14.5	0.0	3.3	6.7	0
242	SUBMARINE CABLE - METALLIC	16.0	0.0	40.1	3.7	0
242	SUBMARINE CABLE - FIBER	16.0	0.0	3.0	6.1	0
243	AERIAL WIRE	7.0	-128.0	127.7	14.3	156
244	UNDERGROUND CONDUIT	39.0	-5.0	22.3	2.1	-2
261	F&OE - FURNITURE	13.1	2.0	21.0	5.9	-1
261	F&OE - COMPUTERS	6.1	2.0	29.2	11.3	5
262	CO OFFICIAL - LARGE PBX	11.0	0.0	21.7	7.1	4
262	CO OFFICIAL - APPARATUS	10.0	0.0	11.8	8.8	-22
264	PASSENGER CARS	3.1	19.0	35.6	14.6	0
264	PICKUPS AND LIGHT TRUCKS	3.4	20.0	40.1	11.7	0
264	HEAVY TRUCKS	3.7	20.0	64.3	4.2	0
264	SPECIAL MOTOR VEHICLE EQ	3.7	14.0	55.7	8.2	0
264	TRUCKS-TRACTRS-TRLRS-CS	7.5	4.0	43.5	7.0	0
264	TRUCKS-TRACTRS-TRLRS-AC	6.9	4.0	48.5	6.9	1
264	MOTOR VEHICLE SHOP EQ	6.7	2.0	44.7	8.0	-2
264	TOOLS AND OTHER WORK EQ	11.5	4.0	27.4	6.0	-13
264	TRAILERS	9.0	17.0	29.6	5.9	-9
264	MOBILE TOOLS	4.6	18.0	56.9	5.5	0

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
GENERAL TELEPHONE COMPANY OF THE SOUTHWEST - TEXAS
Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	23.0	13.0	18.0	3.0	513
221	COE-ELECTRONIC DIGITAL	15.5	0.0	11.3	5.7	1007
221	COE-ELECTRONIC ANALOG #2	9.0	4.0	16.8	8.8	163
221	COE-ELECTRONIC ANALOG #1	-	0.0	-	-	@
221	COE-T.S.P.S.	-	0.0	-	-	@
221	COE-MANUAL SWITCHING	-	-	91.5	54.1	0
221	COE-AUTOMATIC SWITCHING	4.1	-2.0	60.4	10.1	0
221	COE-AUTO MSSGE REC	-	-	100.0	30.9	0
221	COE-CIRCUIT	7.4	15.0	22.3	8.5	6396
221	COE-RADIO	11.6	1.0	26.1	6.3	40
235	PUBLIC TELEPHONE	11.4	0.0	13.8	7.6	-193
231	STATION APPARATUS	-	-	37.9	9.5	0
231	SMALL PBX	-	-	84.7	12.2	0
231	TELETYPE EQ	-	-	45.2	8.7	0
234	LARGE PBX - DIGITAL	-	-	64.2	10.3	0
234	LARGE PBX - OTHER	-	-	102.0	37.9	0
234	E911 EQ	5.0	0.0	10.7	17.9	0
241	POLE LINES	15.7	-65.0	48.4	7.4	1852
241	TOWERS	11.1	-13.0	52.7	5.4	1
242	A. C. - METALLIC	15.4	-35.0	37.5	6.3	8700
242	A. C. - FIBER	14.4	-2.0	7.8	6.5	8
242	U. C. - METALLIC	26.0	-21.0	17.0	4.0	678
242	U. C. - FIBER	17.1	-2.0	7.1	5.5	39
242	B. C. - METALLIC	15.1	-5.0	22.4	5.5	5016
242	B. C. - FIBER	15.3	0.0	6.1	6.1	24
242	SUBMARINE CABLE - METALLIC	16.0	0.0	40.1	3.7	30
242	SUBMARINE CABLE - FIBER	16.0	0.0	3.0	6.1	0
243	AERIAL WIRE	5.5	-82.0	100.3	14.9	959
244	UNDERGROUND CONDUIT	44.0	-10.0	15.1	2.2	68
261	F&OE - FURNITURE	12.4	2.0	22.4	6.1	-101
261	F&OE - COMPUTERS	6.0	2.0	28.7	11.6	106
262	CO OFFICIAL - LARGE PBX	5.0	0.0	57.9	8.4	0
262	CO OFFICIAL - APPARATUS	9.8	0.0	15.6	8.6	-747
264	PASSENGER CARS	3.1	19.0	38.3	13.8	0
264	PICKUPS AND LIGHT TRUCKS	3.4	20.0	42.2	11.1	0
264	HEAVY TRUCKS	3.7	20.0	51.8	7.6	0
264	SPECIAL MOTOR VEHICLE EQ	3.7	14.0	55.0	8.4	0
264	TRUCKS-TRACTRS-TRLRS-CS	7.5	4.0	43.5	7.0	-6
264	TRUCKS-TRACTRS-TRLRS-AC	6.9	4.0	48.5	6.9	-29
264	MOTOR VEHICLE SHOP EQ	6.7	2.0	44.7	8.0	-14
264	TOOLS AND OTHER WORK EQ	11.5	4.0	27.4	6.0	-309
264	TRAILERS	9.2	17.0	29.2	5.8	-64
264	MOBILE TOOLS	4.1	18.0	62.4	4.8	0
264	AIRCRAFT	4.2	50.0	41.3	2.1	0

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve imbalance.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
HAWAIIAN TELEPHONE COMPANY

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	33.0	-3.0	21.3	2.5	-508
221	COE - MANUAL SWITCH EQPT	3.5	-5.0	38.1	19.1	0
221	COE - AUTO SWITCH OTHER ●	2.8	-5.0	75.3	10.6	17791
221	COE - A. M. R. E.	1.2	-1.0	27.9	60.9	0
221	COE - CIRCUIT	8.6	9.0	29.4	7.2	48
221	COE - CIRCUIT TP	6.4	-5.0	56.2	7.6	-431
221	COE - RADIO	8.9	-5.0	45.7	6.7	27
221	COE - ELECTRONIC ANALOG	8.0	-5.0	41.8	7.9	1294
221	COE - ELECTRONIC DIGITAL	13.0	0.0	15.3	6.5	-51
231	STA APP - TELEPHONE	-	-	25.9	13.4	0
234	LARGE PBX - TELEPHONE	-	-	87.7	12.7	0
234	LARGE PBX - SW & SIG DEV	-	-	59.3	4.9	0
235	PUBLIC TELEPHONE	-	-	56.8	13.4	0
241	POLE LINES	21.0	-30.0	25.0	5.0	-386
242	AERIAL CABLE	20.0	-15.0	27.3	4.4	-403
242	UNDERGROUND CABLE	28.0	-18.0	20.8	3.5	90
242	BURIED CABLE	23.0	-10.0	24.9	3.7	-129
242	SUBMARINE CABLE	8.4	-1.0	47.0	6.4	-764
243	AERIAL WIRE	7.6	-35.0	52.0	10.9	37
244	UNDERGROUND CONDUIT	41.0	-15.0	25.3	2.2	138
261	F&OE - FURNITURE	12.2	10.0	18.1	5.9	-54
261	F&OE - COMPUTERS	4.7	5.0	26.1	14.7	0
262	OTHER COMM EQ CO OFF	-	-	48.3	11.4	0
264	V&OWE - MOTOR VEHICLES	4.4	18.0	42.6	9.0	0
264	V&OWE - M. V. SHOP EQPT	8.0	0.0	48.1	6.5	-4
264	V&OWE - OTHER WORK EQPT	6.8	5.0	38.8	8.3	-120

● Amortization of the January 1, 1987 reserve imbalance over 18 months.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over 18 months.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
MICHIGAN BELL TELEPHONE COMPANY

Effective January 1, 1987

Rate Category	Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	28.0	8.0	21.3	2.5	-643
221	COE - STEP-BY-STEP	4.5	-3.0	73.7	6.5	0
221	COE - CROSSBAR	1.6	-8.0	55.7	32.7	0
221	COE - CIRCUIT	8.4	-2.0	33.7	8.1	4637
221	COE - CIRCUIT DDS	8.3	-4.0	28.2	9.1	81
221	COE - RADIO	7.9	-3.0	37.4	8.3	-576
221	COE - ELECTRONIC ANALOG	10.5	0.0	38.0	5.9	14930
221	COE - ELECTRONIC DIGITAL	12.8	0.0	9.2	7.1	23
234	LARGE PBX - OTHER	2.0	-4.0	63.1	20.5	0
234	LARGE PBX - DDS	4.6	2.0	60.6	8.1	0
235	PUBLIC TELEPHONE	5.0	1.0	53.6	9.1	0
241	POLE LINES	17.6	-61.0	57.5	5.9	1033
242	A. C. - OTHER	10.1	-10.0	41.2	6.8	11907
242	A. C. - HOUSE	20.0	-18.0	32.8	4.3	166
242	U. C. - EXCH	19.2	5.0	29.2	3.4	4549
242	B. C. - EXCH	16.2	-7.0	31.6	4.7	15041
242	BURIED WIRE	7.7	-6.0	35.1	9.2	29
242	SUBMARINE CABLE	14.3	-3.0	52.7	3.5	7
243	AERIAL WIRE	-	-80.0	180.0	-	0
244	UNDERGROUND CONDUIT	45.0	-10.0	22.4	1.9	1889
261	F&OE - FURNITURE	7.2	2.0	32.7	9.1	-240
261	F&OE - COMPUTERS	3.3	0.0	52.9	14.3	0
262	OTHER COMM EQUIPMENT	4.0	2.0	52.7	11.3	0
264	V&OWE - MOTOR VEHICLES	4.5	6.0	44.9	10.9	0
264	V&OWE - OTHER WORK EQPT	9.1	4.0	26.7	7.6	-48

* For accounts which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY - ARIZONA

Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	24.0	-3.0	18.2	3.5	456
221	COE - STEP-BY-STEP	3.0	-12.0	54.6	19.1	0
221	COE - CROSSBAR	2.9	-2.0	38.0	22.1	0
221	COE - CIRCUIT	7.8	4.0	24.1	9.2	4056
221	COE - CIRCUIT DDS	5.7	-4.0	37.5	11.7	159
221	COE - RADIO	9.8	-5.0	37.5	6.9	-125
221	COE - ELECTRONIC	11.7	4.0	22.5	6.3	4932
235	PUBLIC TELEPHONE	3.3	4.0	76.0	6.1	0
234	LPBX - OTHER	-	-	88.9	34.1	0
234	LPBX - DDS	-	-	62.7	16.7	0
241	POLE LINES	16.6	-34.0	35.9	5.9	-1030
242	AER CABLE - OTHER	17.5	-7.0	33.5	4.2	1459
242	AER CABLE - BLDGS	14.9	-15.0	29.3	5.8	-1982
242	AER CABLE - TOLL	10.3	13.0	36.8	4.9	42
242	UNDERGROUND CABLE - EXCH	24.0	7.0	23.3	2.9	3805
242	UNDERGROUND CABLE - TOLL	14.2	21.0	20.3	4.1	17
242	BURIED CABLE - EXCH	21.0	-3.0	22.9	3.8	3717
242	BURIED CABLE - TOLL	17.1	2.0	28.2	4.1	49
242	SUBMARINE CABLE - EXCH	22.0	0.0	37.1	2.9	0
242	SUBMARINE CABLE - TOLL	21.0	0.0	44.7	2.6	0
243	AERIAL WIRE	7.1	-17.0	22.9	13.3	335
244	UNDERGROUND CONDUIT	51.0	-7.0	17.5	1.8	541
261	F&OE - FURNITURE	11.9	2.0	17.3	6.8	46
261	F&OE - COMPUTERS	4.3	5.0	52.6	9.9	0
262	STATION APPARATUS	4.8	0.0	52.4	9.9	0
262	PBX & KEY INTRASYSTEMS	5.5	5.0	26.4	12.5	-14
264	V&OWE - MOTOR VEHICLES	5.7	16.0	35.7	8.5	-9
264	V&OWE - OTHER WORK EQPT	11.9	14.0	18.5	5.7	-288

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

\# Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY - IDAHO

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
A		B	C	D	E	F
212	BUILDINGS	27.0	-1.0	22.3	2.9	110
221	MANUAL	0.0	0.0	0.0	0.0	●
221	COE - STEP-BY-STEP	3.2	-7.0	50.3	17.7	0
221	COE - CROSSBAR	2.2	-7.0	62.4	20.3	0
221	COE - CIRCUIT	8.3	5.0	26.8	8.2	239
221	COE - CIRCUIT DDS	3.6	-4.0	18.6	23.7	0
221	COE - RADIO	7.6	-9.0	55.1	7.1	-101
221	COE - ELECTRONIC	13.1	3.0	25.5	5.5	1238
235	PUBLIC TELEPHONE EQ	4.1	1.0	60.1	9.5	0
234	LPBX - OTHER	-	-	43.5	23.5	0
234	LPBX - DDS	-	-	34.5	17.8	0
241	POLE LINES	12.0	-44.0	51.1	7.7	214
242	AER CABLE - OTHER	16.4	-12.0	33.6	4.8	547
242	AER CABLE - BLDGS	15.6	-7.0	23.9	5.3	-18
242	AER CABLE - TOLL	13.4	11.0	27.1	4.6	25
242	UNDERGROUND CABLE - EXCH	21.0	3.0	24.3	3.5	471
242	UNDERGROUND CABLE - TOLL	16.0	-6.0	19.0	5.4	18
242	BURIED CABLE - EXCH	20.0	-2.0	20.4	4.1	396
242	BURIED CABLE - TOLL	14.9	-2.0	20.7	5.5	134
242	SUBMARINE CABLE EXCH	24.0	0.0	33.3	2.8	0
242	SUBMARINE CABLE TOLL	15.7	0.0	68.6	2.0	0
243	AERIAL WIRE	4.9	-20.0	59.0	15.9	●
244	UNDERGROUND CONDUIT	53.0	-7.0	18.4	1.7	67
261	F&OE - FURNITURE	11.5	3.0	20.9	6.6	-19
261	F&OE - COMPUTERS	3.7	2.0	49.3	13.2	0
262	STATION APPARATUS	4.7	-1.0	38.0	13.4	0
262	PBX & KEY INTRASYSTEMS	4.0	5.0	40.6	13.6	0
264	V&OWE - MOTOR VEHICLES	5.0	8.0	39.6	10.5	0
264	V&OWE - OTHER WORK EQPT	10.0	8.0	29.5	6.3	-126

● Amortizations ordered in FCC 85-656, released December 31, 1985, are continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY - MONTANA

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
A		B	C	D	E	F
212	BUILDINGS	22.0	-2.0	29.8	3.3	582
221	COE - STEP-BY-STEP	4.7	-7.0	47.5	12.7	0
221	COE - CROSSBAR	3.3	-10.0	44.5	19.8	0
221	COE - CIRCUIT	9.0	2.0	29.2	7.6	481
221	COE - CIRCUIT DDS	11.0	-4.0	0.0	9.5	0
221	COE - RADIO	9.2	-10.0	44.9	7.1	-8
221	ELECTRONIC	13.4	3.0	17.6	5.9	571
235	PUBLIC TELEPHONE	3.9	1.0	62.4	9.4	0
234	LPBX - OTHER	-	-	100.0	20.8	0
234	LPBX - DDS	-	-	100.0	17.8	0
241	POLE LINES	6.4	-51.0	85.6	10.2	1066
242	AER CABLE - EXCH	19.5	-7.0	24.3	4.2	-35
242	AER CABLE - BLDGS	13.4	-2.0	32.5	5.2	26
242	AER CABLE - TOLL	13.3	8.0	30.8	4.6	3
242	UNDERGROUND CABLE - EXCH	19.0	11.0	30.7	3.1	377
242	UNDERGROUND CABLE - TOLL	16.5	-5.0	29.0	4.6	23
242	BURIED CABLE - EXCH	19.1	7.0	15.8	4.0	-22
242	BURIED CABLE - TOLL	17.5	20.0	21.7	3.3	68
242	SUBMARINE CABLE - EXCH	21.0	0.0	46.2	2.6	-1
242	SUBMARINE CABLE - TOLL	17.5	0.0	57.3	2.4	0
243	AERIAL WIRE	-	-	81.7	10.8	●
244	UNDERGROUND CONDUIT	49.0	-7.0	25.8	1.7	86
261	F&OE - FURNITURE	10.8	1.0	24.2	6.9	-20
261	F&OE - COMPUTERS	4.1	2.0	8.0	22.0	0
262	STATION APPARATUS	2.9	-2.0	58.5	15.0	0
262	PBX & KEY INTRASYSTEMS	4.2	5.0	39.3	13.3	0
264	V&OWE - MOTOR VEHICLES	4.5	20.0	46.1	7.5	0
264	V&OWE - OTHER WORK EQPT	12.1	18.0	19.6	5.2	-169

● Amortization ordered in FCC 85-656, released December 31, 1985, is continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

\# Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY - NEW MEXICO

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	28.0	-1.0	16.2	3.0	-98
221	MANUAL	0.0	0.0	0.0	0.0	●
221	COE - STEP-BY-STEP	4.0	-12.0	45.3	16.7	0
221	COE - CROSSBAR	3.6	-10.0	50.4	16.6	0
221	COE - CIRCUIT	7.2	3.0	25.8	9.9	1186
221	COE - CIRCUIT DDS	6.2	-4.0	24.7	12.8	-12
221	COE - RADIO	9.7	-16.0	36.2	8.2	200
221	COE - ELECTRONIC	12.4	3.0	21.8	6.1	2189
235	PUBLIC TELEPHONE EQ	2.4	2.0	78.7	8.0	0
234	LPBX - OTHER	-	-	100.0	19.9	0
234	LPBX - DDS	-	-	100.0	17.3	0
241	POLE LINES	13.3	-29.0	43.0	6.5	-211
242	AER CABLE - OTHER	17.2	-13.0	33.5	4.6	427
242	AER CABLE - BLDGS	14.9	-15.0	25.6	6.0	45
242	AER CABLE - TOLL	9.4	13.0	44.7	4.5	40
242	UNDERGROUND CABLE - EXCH	19.3	1.0	20.2	4.1	331
242	UNDERGROUND CABLE - TOLL	14.7	2.0	11.9	5.9	15
242	BURIED CABLE - EXCH	21.0	-4.0	23.1	3.9	1156
242	BURIED CABLE - TOLL	16.4	0.0	21.9	4.8	184
242	SUBMARINE CABLE EXCHANGE	30.0	0.0	0.0	0.0	0
242	SUBMARINE CABLE TOLL	22.0	0.0	24.1	0.0	0
243	AERIAL WIRE	8.2	-38.0	-5.3	17.5	●
244	UNDERGROUND CONDUIT	48.0	-7.0	16.1	1.9	28
261	F&OE - FURNITURE	10.6	1.0	23.0	7.2	91
261	F&OE - COMPUTERS	4.5	2.0	24.1	16.4	0
262	STATION APPARATUS	2.7	-2.0	52.2	18.4	0
262	PBX & KEY INTRASYSTEMS	3.4	5.0	35.8	17.4	0
264	V&OWE - MOTOR VEHICLES	5.5	14.0	36.2	9.1	61
264	V&OWE - OTHER WORK EQPT	10.9	16.0	24.0	5.5	-141

● Amortizations ordered in FCC 85-656, released December 31, 1985, are continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY - UTAH

Effective January 1, 1987@

Rate Category	Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate
		(years)	(%)	(%)	(%)
	A	B	C	D	E
212	BUILDINGS	33.0	-2.0	18.5	2.5
221	COE - STEP-BY-STEP	3.6	-7.0	46.2	16.9
221	COE - CROSSBAR	1.7	-3.0	29.1	43.5
221	COE - CIRCUIT	7.8	-2.0	26.7	9.7
221	COE - CIRCUIT DDS	6.5	-4.0	29.3	11.5
221	COE - RADIO	9.1	-5.0	24.2	8.9
221	COE - ELECTRONIC	9.3	3.0	16.8	8.6
234	LARGE PBX - OTHER	-	-	83.2	48.7
234	LARGE PBX - DDS	-	-	25.3	15.8
235	PUBLIC TELEPHONE	3.8	2.0	64.8	8.7
241	POLE LINES	19.1	-46.0	34.3	5.8
242	A.C. - EXCH - OTHER	17.2	-9.0	33.3	4.4
242	A.C. - EXCH - BUILDING	14.1	-15.0	34.3	5.7
242	A.C. - TOLL	10.4	48.0	20.1	3.1
242	U. C. - EXCH	19.7	17.0	26.4	2.9
242	U. C. - TOLL	18.6	22.0	20.6	3.1
242	B. C. - EXCH	22.0	-1.0	23.2	3.5
242	B. C. - TOLL	17.5	2.0	33.6	3.7
243	AERIAL WIRE	7.1	1.0	43.0	7.9
244	UNDERGROUND CONDUIT	46.0	-7.0	22.4	1.8
261	F&OE - FURNITURE	9.6	1.0	16.6	8.6
261	F&OE - COMPUTERS	4.0	2.0	33.7	16.1
262	OTHER COMM EQUIPMENT	0.0	0.0	99.3	13.7
262	PBX & KEY INTRASYSTEMS	4.2	5.0	32.8	14.8
264	V&OWE - MOTOR VEHICLES	4.0	21.0	43.6	8.9
264	V&OWE - OTHER WORK EQPT	11.5	15.0	18.0	5.8

@ Amortizations ordered in FCC 85-656, released December 31, 1985, are continued.

* For accounts with reserve imbalance amortizations, Column (D) contains the book reserve adjusted to recognize the previously ordered amortizations.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
THE MOUNTAIN STATES TELEPHONE AMD TELEGRAPH COMPANY - WYOMING

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	30.0	0.0	18.1	2.7	173
221	COE - MANUAL	-	-	-	-	●
221	COE - STEP-BY-STEP	4.0	-10.0	57.3	13.2	0
221	COE - CROSSBAR	5.0	-2.0	52.5	9.9	0
221	COE - CIRCUIT	8.2	3.0	30.8	8.1	1713
221	COE - CIRCUIT DDS	0.0	0.0	0.0	9.5	0
221	COE - RADIO	9.1	-5.0	40.2	7.1	200
221	COE - ELECTRONIC ANALOG	12.1	3.0	27.1	5.8	800
235	PUBLIC TELEPHONE	2.5	3.0	63.2	13.5	0
234	LPBX - OTHER	-	-	100.0	22.0	0
234	LPBX - DDS	-	-	100.0	17.8	0
241	POLE LINES	7.9	-50.0	53.5	12.2	-228
242	A. C. - EXCH - OTHER	16.9	-18.0	30.4	5.2	242
242	A. C. - EXCH - BUILDING	14.3	-7.0	23.8	5.8	8
242	A. C. - TOLL	11.9	6.0	19.4	6.3	20
242	U. C. - EXCH	19.8	8.0	21.9	3.5	401
242	U. C. - TOLL	16.9	-6.0	18.3	5.2	28
242	B. C. - EXCH	23.0	-3.0	19.2	3.6	-403
242	B. C. - TOLL	15.2	2.0	40.7	3.8	-98
242	SUBMARINE CABLE	19.7	0.0	48.2	2.6	0
242	SUBMARINE CABLE TOLL	0.0	0.0	0.0	3.3	0
243	AERIAL WIRE	4.8	-2.0	37.1	13.5	●
244	UNDERGROUND CONDUIT	55.0	-7.0	13.6	1.7	11
261	F&OE - FURNITURE	12.3	2.0	15.7	6.7	39
261	F&OE - COMPUTERS	4.1	2.0	29.9	16.6	0
262	OTHER COMM EQUIPMENT	2.5	-1.0	36.7	25.7	0
262	PBX & KEY INTRASYSTEMS	4.4	5.0	41.4	12.2	0
264	V&OWE - MOTOR VEHICLES	4.6	10.0	47.3	9.3	0
264	V&OWE - OTHER WORK EQPT	12.2	21.0	15.7	5.2	-174

● Amortizations ordered in FCC 85-656, released December 31, 1985, are continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
NEW JERSEY BELL TELEPHONE COMPANY

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	29.0	3.0	24.5	2.5	-1623
221	COE - CROSSBAR	-	-6.0	58.9	15.1	●
221	COE - CIRCUIT	8.9	-1.0	32.4	7.7	12819
221	COE - CIRCUIT DDS	5.0	-2.0	37.7	12.9	0
221	COE - RADIO	8.7	2.0	35.2	7.2	-69
221	COE - ELECTRONIC ANALOG	11.6	1.0	29.5	6.0	12929
221	COE - ELECTRONIC DIGITAL	13.4	1.0	8.1	6.8	278
231	STA APP - TELE & MISC	2.2	3.0	59.7	17.0	0
234	LARGE PBX - OTHER	3.4	-3.0	58.3	13.1	0
234	LARGE PBX - DDS	2.1	-1.0	94.3	3.2	0
235	PUBLIC TELEPHONE	6.2	3.0	40.8	9.1	217
241	POLE LINES	25.0	-66.0	57.4	4.3	3505
242	A. C. - EXCH	16.5	-16.0	34.2	5.0	19706
242	A. C. - TOLL	14.6	41.0	23.3	2.4	177
242	U. C. - EXCH	24.0	-4.0	26.0	3.3	5680
242	U. C. - TOLL	18.5	12.0	33.1	3.0	2052
242	BURIED CABLE	20.0	-4.0	24.0	4.0	2681
242	SUBMARINE CABLE	12.1	-9.0	59.6	4.1	39
244	UNDERGROUND CONDUIT	46.0	-5.0	23.1	1.8	3691
261	F&OE - FURNITURE	9.9	2.0	21.0	7.8	412
261	F&OE - COMPUTERS	4.2	7.0	33.1	14.3	0
262	OTHER COMM EQUIPMENT	4.4	3.0	47.6	11.2	0
264	V&OWE - MOTOR VEHICLES	5.4	17.0	33.2	9.2	-345
264	V&OWE - OTHER WORK EQPT	6.7	0.0	36.2	9.5	-232

● Amortization ordered in FCC 85-656, released December 31, 1985, is continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
NEW YORK TELEPHONE COMPANY

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	38.0	-1.0	20.5	2.1	-6682
212	BUILDINGS - FIXTURES	13.3	-4.0	26.4	5.8	515
221	COE - STEP-BY-STEP	2.2	-6.0	65.8	18.3	666
221	COE - CROSSBAR	3.3	-5.0	71.1	10.3	61564
221	COE - CIRCUIT	9.1	-7.0	35.0	7.9	51255
221	COE - CIRCUIT DDS	7.9	6.0	20.9	9.3	116
221	COE - RADIO	9.2	-4.0	24.9	8.6	206
221	COE - ELECTRONIC ANALOG	10.7	5.0	31.6	5.9	38653
221	COE - ELECTRONIC DIGITAL	13.4	5.0	7.1	6.6	2156
231	STA APP - CUSTOMER	4.5	3.0	44.9	11.6	1565
234	LARGE PBX - OTHER	3.4	-10.0	50.7	17.4	-5424
234	LARGE PBX - DDS	3.2	-6.0	61.0	14.1	-103
235	PUBLIC TEL COIN & COINLESS	3.2	-11.0	69.1	13.1	3478
235	PUBLIC TEL OTHER	3.6	-13.0	69.1	12.2	2683
241	POLE LINES	23.0	-83.0	53.7	5.6	5253
242	A. C. - SUBSC'R - BLDG	18.6	-32.0	32.0	5.4	13210
242	A. C. - SUBSC'R - OTHER	16.3	-28.0	42.4	5.3	39917
242	A. C. - TRUNK	17.7	14.0	33.3	3.0	2498
242	U. C. - SUBSCRIBER	22.0	-10.0	34.3	3.4	22619
242	U. C. - TRUNK	21.0	10.0	36.3	2.6	12416
242	B. C. - SUBSCRIBER	18.0	-7.0	32.2	4.2	7028
242	B. C. - TRUNK	18.4	-4.0	37.4	3.6	1159
242	SUBMARINE CABLE-SUB & TRK	15.9	-10.0	37.3	4.6	77
243	AERIAL WIRE	5.3	-29.0	69.5	11.2	367
244	UNDERGROUND CONDUIT - MAIN	49.0	-20.0	24.4	2.0	4151
244	UNDERGROUND CONDUIT - SUBS	41.0	-12.0	22.3	2.2	-467
261	F&OE - FURNITURE	13.3	2.0	21.6	5.7	810
261	F&OE - COMPUTERS	3.5	3.0	45.9	14.6	7202
262	OFF COMM EQPT - EXCL PBX	3.3	-2.0	62.1	12.1	2986
262	OFFICIAL COMM EQPT - PBX	4.8	2.0	43.4	11.4	-2382
264	V&OWE - MOTOR VEHICLES	4.0	8.0	47.9	11.0	-893
264	V&OWE - OTHER WORK EQPT	6.4	5.0	36.2	9.2	-159

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the book reserve adjusted to recognize the previously ordered amortization.

Remaining amortization ordered in FCC 86-603, released January 22, 1987, is amortized over five years.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
NORTHWESTERN BELL TELEPHONE COMPANY - IOWA

Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	34.0	6.0	20.7	2.2	346
221	COE - STEP-BY-STEP	2.9	-15.0	79.0	12.4	0
221	COE - CROSSBAR	2.8	-3.0	68.4	12.4	0
221	COE - CIRCUIT	7.7	5.0	32.6	8.1	1114
221	COE - CIRCUIT DDS	6.0	-4.0	39.5	10.8	30
221	COE - RADIO	7.8	-7.0	36.9	9.0	269
221	COE - ELECTRONIC	10.7	2.0	29.5	6.4	4873
231	STA APP - TELETYPEWRITER	4.4	-4.0	17.2	19.7	0
231	STA APP - TELE & MISC	5.9	-1.0	31.3	11.8	-14
234	LARGE PBX - OTHER	1.5	-2.0	70.1	21.3	-200
234	LARGE PBX - DDS	5.5	2.0	16.3	14.9	-43
235	PUBLIC TELEPHONE	5.9	-1.0	44.0	9.7	-122
241	POLE LINES	3.8	-76.0	62.7	29.8	0
242	A. C. - EXCH	9.1	-34.0	65.0	7.6	2565
242	A. C. - TOLL	-	-4.0	104.0	10.5	0
242	U. C. - EXCH	18.0	-8.0	42.2	3.7	3212
242	U. C. - TOLL	13.2	0.0	35.9	4.9	158
242	B. C. - EXCH	17.0	-16.0	40.2	4.5	7197
242	B. C. - TOLL	13.7	-10.0	50.3	4.4	1838
242	SUBMARINE CABLE	10.2	-2.0	64.8	3.6	-4
243	AERIAL WIRE	-	-26.4	-562.8	-	●
244	UNDERGROUND CONDUIT	35.0	-32.0	49.5	2.4	3530
261	F&OE - FURNITURE	7.1	2.0	37.0	8.6	322
261	F&OE - COMPUTERS	3.0	5.0	42.4	17.5	0
262	OTHER COMM EQUIPMENT	4.7	-3.0	73.3	6.3	0
264	V&OWE - MOTOR VEHICLES	3.5	17.0	49.3	9.6	0
264	V&OWE - OTHER WORK EQPT	8.2	4.0	36.7	7.2	-61

● Amortization ordered in FCC Order 83-587, released December 20, 1983, is continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
NORTHWESTERN BELL TELEPHONE COMPANY - MINNESOTA

Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	32.0	6.0	20.9	2.3	1168
221	COE - STEP-BY-STEP	3.4	-5.0	73.6	9.2	0
221	COE - CROSSBAR	2.9	0.0	58.8	14.2	0
221	COE - CIRCUIT	8.0	5.0	29.3	8.2	1709
221	COE - CIRCUIT DDS	6.3	0.0	43.7	8.9	6
221	COE - RADIO	8.3	-5.0	41.7	7.6	24
221	COE - ELECTRONIC	11.0	2.0	31.2	6.1	7108
231	STA APP - TELETYPEWRITER	5.0	-4.0	84.2	4.0	0
231	STA APP - TELE & MISC	6.0	-1.0	47.7	8.9	-31
234	LARGE PBX - OTHER	1.5	-2.0	61.5	27.0	●
234	LARGE PBX - DDS	5.5	2.0	23.1	13.6	-95
235	PUBLIC TELEPHONE	6.0	-1.0	37.0	10.7	-231
241	POLE LINES	3.7	-66.0	98.4	18.3	0
242	A. C. - EXCH	10.6	-21.0	50.5	6.7	4524
242	A. C. - TOLL	1.0	-14.0	89.3	24.7	●
242	U. C. - EXCH	18.1	0.0	36.6	3.5	6497
242	U. C. - TOLL	11.7	7.0	40.1	4.5	104
242	B. C. - EXCH	17.1	-8.0	34.1	4.3	8381
242	B. C. - TOLL	13.8	-3.0	50.4	3.8	1296
242	SUBMARINE CABLE	12.1	-1.0	52.1	4.0	-14
243	AERIAL WIRE	-	-47.0	-323.3	-	●
244	UNDERGROUND CONDUIT	37.0	-28.0	40.3	2.4	5774
261	F&OE - FURNITURE	6.8	2.0	34.5	9.3	571
261	F&OE - COMPUTERS	3.3	5.0	35.6	18.0	0
262	OTHER COMM EQUIPMENT	5.2	-3.0	46.6	10.8	-97
264	V&OWE - MOTOR VEHICLES	3.0	15.0	58.2	8.9	0
264	V&OWE - OTHER WORK EQPT	7.6	10.0	33.0	7.5	15

● Amortizations ordered in FCC 83-587, released December 20, 1983 and in FCC 86-603, released January 22, 1987, are continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

\# Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
NORTHWESTERN BELL TELEPHONE COMPANY - NEBRASKA

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	35.0	3.0	19.0	2.2	776
221	COE - STEP-BY-STEP	4.5	-5.0	71.4	7.5	0
221	COE - CROSSBAR	3.3	-5.0	67.7	11.3	●
221	COE - CIRCUIT	7.8	5.0	30.8	8.2	473
221	COE - CIRCUIT DDS	7.4	-4.0	29.2	10.1	22
221	COE - RADIO	7.3	-5.0	47.4	7.9	127
221	COE - ELECTRONIC	11.2	2.0	26.1	6.4	2540
231	STA APP - TELE & MISC	5.6	-1.0	41.5	10.6	-11
234	LARGE PBX - OTHER	3.0	-2.0	62.6	13.1	0
234	LARGE PBX - DDS	5.5	2.0	18.7	14.4	-21
235	PUBLIC TELEPHONE	5.6	-1.0	47.4	9.6	-110
241	POLE LINES	4.9	-14.0	-98.4	43.3	0
242	A. C. - EXCH	10.8	-27.0	57.1	6.5	805
242	A. C. - TOLL	-	51.0	49.0	7.3	0
242	U. C. - EXCH	17.9	-4.0	38.2	3.7	1762
242	U. C. - TOLL	12.2	-20.0	45.2	6.1	90
242	B. C. - EXCH	16.8	-14.0	40.3	4.4	2930
242	B. C. - TOLL	16.3	-2.0	35.5	4.1	517
242	SUBMARINE CABLE	20.0	-2.0	36.2	3.3	-16
243	AERIAL WIRE	-	-59.0	-1295.5	-	●
244	UNDERGROUND CONDUIT	42.0	-38.0	39.8	2.3	1542
261	F&OE - FURNITURE	9.2	6.0	28.5	7.1	279
261	F&OE - COMPUTERS	3.5	5.0	32.4	17.9	0
262	OTHER COMM EQUIPMENT	4.8	-2.0	67.4	7.2	0
264	V&OWE - MOTOR VEHICLES	3.5	13.0	47.3	11.3	0
264	V&OWE - OTHER WORK EQPT	4.7	18.0	41.5	8.6	0

● Amortizations ordered in FCC 83-587, released December 20, 1983 and in FCC 86-603, released January 22, 1987, are continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
NORTHWESTERN BELL TELEPHONE COMPANY - NORTH DAKOTA

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	26.0	9.0	22.7	2.6	56
221	COE - STEP-BY-STEP	4.9	-9.0	82.5	5.4	0
221	COE - CROSSBAR	1.9	-5.0	53.1	27.3	0
221	COE - CIRCUIT	8.1	5.0	32.4	7.7	385
221	COE - RADIO	7.1	-7.0	47.8	8.3	4
221	COE - ELECTRONIC	12.2	2.0	24.2	6.0	618
231	STA APP - TELE & MISC	7.0	8.0	47.0	6.4	-4
234	LARGE PBX - OTHER	3.0	-1.0	41.0	20.0	0
235	PUBLIC TELEPHONE	7.0	8.0	29.1	9.0	-84
241	POLE LINES	3.8	-76.0	10.6	43.5	0
242	A. C. - EXCH	10.3	-37.0	59.3	7.5	570
242	A. C. - TOLL	1.5	-38.0	136.6	0.9	0
242	U. C. - EXCH	19.3	-28.0	37.2	4.7	629
242	U. C. - TOLL	14.3	-2.0	21.5	5.6	2
242	B. C. - EXCH	16.8	-12.0	36.7	4.5	2441
242	B. C. - TOLL	15.8	-18.0	48.1	4.4	467
242	SUBMARINE CABLE	17.5	0.0	39.7	3.4	-1
243	AERIAL WIRE	-	-36.0	-254.6	-	●
244	UNDERGROUND CONDUIT	41.0	-22.0	31.1	2.2	521
261	F&OE - FURNITURE	6.2	2.0	40.2	9.3	75
261	F&OE - COMPUTERS	3.3	5.0	32.6	18.9	0
262	OTHER COMM EQUIPMENT	4.8	-1.0	52.7	10.1	0
264	V&OWE - MOTOR VEHICLES	2.4	13.0	57.2	12.4	0
264	V&OWE - OTHER WORK EQPT	7.8	4.0	41.0	7.1	34

● Amortization ordered in FCC 83-587, released December 20, 1983, is continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
NORTHWESTERN BELL TELEPHONE COMPANY - SOUTH DAKOTA

Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	19.9	10.0	29.0	3.1	138
221	COE - STEP-BY-STEP	4.2	-11.0	71.9	9.3	0
221	COE - CROSSBAR	3.7	-5.0	52.7	14.1	0
221	COE - CIRCUIT	8.3	5.0	33.6	7.4	177
221	COE - RADIO	8.1	-1.0	33.5	8.3	113
221	COE - ELECTRONIC	11.5	2.0	27.4	6.1	823
231	STA APP - TELE & MISC	6.0	-5.0	40.6	10.7	-3
234	LARGE PBX - OTHER	3.0	-1.0	39.7	20.4	0
235	PUBLIC TELEPHONE	6.0	-5.0	43.7	10.2	-56
241	POLE LINES	5.9	-47.0	79.8	11.4	601
242	A. C. - EXCH	10.2	-44.0	61.0	8.1	713
242	A. C. - TOLL	6.7	-36.0	70.6	9.8	16
242	U. C. - EXCH	19.2	-26.0	38.5	4.6	838
242	U. C. - TOLL	10.7	4.0	28.2	6.3	14
242	B. C. - EXCH	16.4	-15.0	40.2	4.6	2718
242	B. C. - TOLL	13.1	-12.0	48.2	4.9	553
242	SUBMARINE CABLE	13.8	0.0	50.7	3.6	2
243	AERIAL WIRE	-	-43.0	-477.5	-	●
244	UNDERGROUND CONDUIT	41.0	-17.0	28.2	2.2	492
261	F&OE - FURNITURE	5.9	5.0	40.0	9.3	84
261	F&OE - COMPUTERS	2.4	5.0	65.2	12.4	0
262	OTHER COMM EQUIPMENT	3.4	0.0	74.1	7.6	0
264	V&OWE - MOTOR VEHICLES	2.4	20.0	46.7	13.9	0
264	V&OWE - OTHER WORK EQPT	6.1	4.0	46.1	8.2	15

● Amortization ordered in FCC 83-587, released December 20, 1083, is continued.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
PACIFIC BELL

Effective January 1,1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	38.0	9.0	7.9	2.2	-15621
221	COE - STEP-BY-STEP	-	-	65.8	-	●
221	COE - CROSSBAR	-	-	49.6	-	●
221	COE - CIRCUIT	7.7	0.0	28.9	9.2	47195
221	COE - CIRCUIT DDS	6.7	-4.0	31.0	10.9	1687
221	COE - RADIO	9.6	-8.0	31.1	8.0	1335
221	COE - ELECTRONIC	11.6	5.0	22.6	6.2	43730
231	STA APP - TELETYPEWRITER	6.0	-3.0	26.8	12.7	0
231	STA APP - TELE & MISC	6.1	5.0	43.5	8.4	-721
234	LARGE PBX - OTHER	3.4	-3.0	44.5	17.2	0
234	LARGE PBX - DDS	5.5	2.0	18.2	14.5	-344
235	PUBLIC TELEPHONE	5.5	5.0	40.0	10.0	-170
241	POLE LINES	20.0	-75.0	51.3	6.2	6382
242	EXCH. AERIAL CABLE	15.2	-12.0	30.9	5.3	31543
242	TOLL AERIAL CABLE	6.2	-24.0	84.2	6.4	1695
242	EXCH. UNDERGROUND CABLE	19.1	-6.0	25.0	4.2	30659
242	TOLL UNDERGROUND CABLE	15.5	13.0	25.7	4.0	2529
242	EXCH. BURIED CABLE	18.5	-14.0	29.6	4.6	14327
242	TOLL BURIED CABLE	15.4	-6.0	38.6	4.4	2108
242	SUBMARINE CABLE	9.3	-17.0	76.8	4.3	452
243	AERIAL WIRE EXCHANGE	5.7	-5.0	30.5	13.1	-1215
243	AERIAL WIRE TOLL	2.3	33.0	9.9	24.8	0
244	UNDERGROUND CONDUIT	53.0	-20.0	17.4	1.9	5759
261	F&OE - FURNITURE	12.9	3.0	19.8	6.0	739
261	F&OE - COMPUTERS	3.4	5.0	35.3	17.6	0
262	OTHER COMM EQUIPMENT	5.3	-1.0	34.9	12.5	-1519
264	VEHICLE & OTHER WORK EQPT	7.9	13.0	27.8	7.5	83

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

\# Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

● Amortizations ordered in 85-656, released December 31, 1985, are continued.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
SOUTHWESTERN BELL TELEPHONE COMPANY - ARKANSAS

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	34.0	4.0	20.3	2.2	-33
221	COE - STEP-BY-STEP	3.4	-6.0	70.8	10.4	0
221	COE - CROSSBAR	3.6	-5.0	26.1	21.9	0
221	OPERATOR SYSTEMS	-	-	0.0	20.1	0
221	COE - CIRCUIT	7.6	4.0	25.4	9.3	2538
221	COE - CIRCUIT DDS	4.9	9.0	14.9	15.5	0
221	COE - RADIO	11.3	-2.0	26.2	6.7	-60
221	COE - ELECTRONIC ANALOG	11.2	0.0	30.6	6.2	3511
221	COE - ELECTRONIC DIGITAL	14.3	2.0	6.1	6.4	45
231	STA APP - TELETYPEWRITER	2.9	2.0	0.0	33.8	0
231	STA APP - TELE & MISC	3.2	-2.0	0.0	31.9	0
234	LARGE PBX - OTHER	0.9	-2.0	89.7	13.7	0
234	LARGE PBX - DDS	1.9	-2.0	80.3	11.4	0
235	PUBLIC TELEPHONE	4.4	0.0	49.8	11.4	0
241	POLE LINES	19.6	-69.0	52.2	6.0	530
242	A. C. - EXCH	11.6	-31.0	54.7	6.6	2633
242	A. C. - TOLL	7.4	-4.0	55.4	6.6	59
242	U. C. - EXCH	20.0	-12.0	25.8	4.3	926
242	U. C. - TOLL	12.1	-24.0	39.2	7.0	148
242	B. C. - EXCH	13.6	-11.0	31.1	5.9	8350
242	B. C. - TOLL	14.2	-3.0	40.0	4.4	892
242	SUBMARINE CABLE	16.4	-3.0	32.6	4.3	1
243	AERIAL WIRE - EXCH	4.9	-71.0	20.4	30.7	0
244	UNDERGROUND CONDUIT	47.0	-5.0	18.4	1.8	354
261	FURN & MECHANICAL	12.5	1.0	25.2	5.9	81
261	COMPUTER & AMA	3.2	13.0	19.1	21.2	0
262	OTHER COMM EQUIPMENT	2.9	2.0	50.8	16.3	0
264	PASS & DEL CARS	3.8	13.0	43.7	11.4	0
264	TRUCKS	5.1	7.0	39.7	10.5	-32
264	OTHER WORK EQPT	11.4	1.0	22.2	6.7	102

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
SOUTHWESTERN BELL TELEPHONE COMPANY - KANSAS

Effective January 1, 1987

Rate Category Description		Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	29.0	6.0	24.4	2.4	-187
221	COE - STEP-BY-STEP	6.2	-12.0	52.8	9.5	-122
221	COE - CROSSBAR	4.6	-5.0	30.9	16.1	0
221	OPERATOR SYSTEMS	-	-	0.0	10.3	0
221	COE - CIRCUIT	7.7	11.0	29.6	7.7	1936
221	COE - CIRCUIT DDS	5.0	17.0	42.5	8.1	0
221	COE - RADIO	10.3	-5.0	32.1	7.1	64
221	COE - ELECTRONIC ANALOG	11.3	3.0	31.8	5.8	3258
221	COE - ELECTRONIC DIGITAL	13.9	2.0	7.2	6.5	45
231	STA APP - TELETYPEWRITER	5.0	1.0	0.0	19.8	0
231	STA APP - TELE & MISC	8.7	-2.0	85.8	1.9	33
234	LARGE PBX - OTHER	1.1	-2.0	87.3	13.4	0
234	LARGE PBX - DDS	2.0	-2.0	78.9	11.5	0
235	PUBLIC TELEPHONE	6.4	3.0	45.2	8.1	349
241	POLE LINES	9.8	-47.0	67.7	8.1	1394
242	A. C. - EXCH	12.4	-15.0	42.8	5.8	1661
242	A. C. - TOLL	9.5	-9.0	66.3	4.5	17
242	U. C. - EXCH	21.0	-27.0	35.8	4.3	1993
242	U. C. - TOLL	12.6	-5.0	30.8	5.9	221
242	B. C. - EXCH	14.5	-14.0	31.4	5.7	5458
242	B. C. - TOLL	15.5	-1.0	38.4	4.0	570
242	SUBMARINE CABLE	11.7	-3.0	42.7	5.2	11
243	AERIAL WIRE - EXCH	4.5	-24.0	36.3	19.5	0
244	UNDERGROUND CONDUIT	52.0	-5.0	18.9	1.7	95
261	FURN & MECHANICAL	19.0	6.0	13.7	4.2	-25
261	COMPUTER & AMA	3.1	21.0	33.2	14.8	0
262	OTHER COMM EQUIPMENT	2.6	1.0	56.1	16.5	0
264	PASS & DEL CARS	3.6	11.0	43.1	12.8	0
264	TRUCKS	4.2	7.0	51.1	10.0	0
264	OTHER WORK EQPT	10.0	3.0	29.1	6.8	-82

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
SOUTHWESTERN BELL TELEPHONE COMPANY - MISSOURI

Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A	(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS	31.0	4.0	16.9	2.6	-127
221	COE - STEP-BY-STEP	4.5	-8.0	46.2	13.7	0
221	COE - CROSSBAR	3.9	-1.0	-39.8	36.1	0
221	OPERATOR SYSTEMS	-	-	0.0	21.6	0
221	COE - CIRCUIT	8.3	0.0	30.6	8.4	4933
221	COE - CIRCUIT DDS	5.3	1.0	34.5	12.2	-144
221	COE - RADIO	13.6	-6.0	25.2	5.9	-211
221	COE - ELECTRONIC ANALOG	11.1	3.0	37.8	5.3	10094
221	COE - ELECTRONIC DIGITAL	13.1	2.0	5.6	7.1	-61
231	STA APP - TELETYPEWRITER	0.0	0.0	0.3	0.0	0
231	STA APP - TELE & MISC	5.8	-2.0	13.2	15.3	-35
234	LARGE PBX - OTHER	-	-	102.0	24.9	0
234	LARGE PBX - DDS	1.4	-2.0	86.9	10.8	0
235	PUBLIC TELEPHONE	5.1	0.0	54.3	9.0	769
241	POLE LINES	15.9	-55.0	58.3	6.1	1221
242	A. C. - EXCH	17.5	-23.0	42.9	4.6	4372
242	A. C. - TOLL	9.4	-7.0	68.6	4.1	62
242	U. C. - EXCH	21.0	-19.0	31.3	4.2	3247
242	U. C. - TOLL	13.6	11.0	23.8	4.8	411
242	B. C. - EXCH	16.5	-10.0	27.5	5.0	7852
242	B. C. - TOLL	14.3	-2.0	43.7	4.1	1501
242	SUBMARINE CABLE	12.3	-5.0	43.5	5.0	1
243	AERIAL WIRE - EXCH	6.8	-90.0	118.4	10.5	654
261	COMPUTER & AMA	4.3	11.0	23.9	15.1	0
262	OTHER COMM EQUIPMENT	3.5	18.0	63.7	5.2	0
264	PASS & DEL CARS	3.6	10.0	48.5	11.5	0
264	TRUCKS	2.2	8.0	73.8	8.3	0
264	OTHER WORK EQPT	8.9	5.0	22.9	8.1	74

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
SOUTHWESTERN BELL TELEPHONE COMPANY - TEXAS

Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	31.0	4.0	18.9	2.5	1934
221	COE - STEP-BY-STEP	3.6	-10.0	32.9	21.4	0
221	COE - CROSSBAR	3.0	-7.0	-20.8	42.6	0
221	OPERATOR SYSTEMS	-	-	0.0	25.2	0
221	COE - CIRCUIT	8.6	0.0	29.2	8.2	21508
221	COE - CIRCUIT DDS	5.0	-1.0	30.1	14.2	0
221	COE - RADIO	11.7	-6.0	29.4	6.5	-293
221	COE - ELECTRONIC ANALOG	11.0	3.0	31.3	6.0	38571
221	COE - ELECTRONIC DIGITAL	14.3	2.0	6.1	6.4	841
231	STA APP - TELETYPEWRITER	4.5	1.0	5.7	20.7	0
231	STA APP - TELE & MISC	8.6	-2.0	38.9	7.3	2
234	LARGE PBX - OTHER	2.2	-2.0	61.5	18.4	0
234	LARGE PBX - DDS	2.3	-2.0	71.4	13.3	0
235	PUBLIC TELEPHONE	5.6	2.0	44.4	9.6	2421
241	POLE LINES	19.0	-75.0	53.4	6.4	2953
242	A. C. - EXCH	13.4	-23.0	37.4	6.4	17113
242	A. C. - TOLL	9.8	-6.0	66.0	4.1	254
242	U. C. - EXCH	23.0	-1.0	20.9	3.5	4005
242	U. C. - TOLL	14.8	-8.0	26.4	5.5	640
242	B. C. - EXCH	14.6	-11.0	29.6	5.6	42986
242	B. C. - TOLL	17.6	-1.0	32.6	3.9	1517
242	SUBMARINE CABLE	13.2	-3.0	48.1	4.2	21
243	AERIAL WIRE - EXCH	5.2	-67.0	83.3	16.1	791
244	UNDERGROUND CONDUIT	54.0	-5.0	15.0	1.7	2700
261	FURN & MECHANICAL	13.6	4.0	17.7	5.8	-456
261	COMPUTER & AMA	3.6	16.0	33.6	14.0	0
262	OTHER COMM EQUIPMENT	2.5	1.0	53.6	18.2	0
264	PASS & DEL CARS	5.1	10.0	38.4	10.1	-118
264	TRUCKS	5.2	5.0	41.9	10.2	104
264	OTHER WORK EQPT	8.0	5.0	25.3	8.7	-197

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
UNITED INTER-MOUNTAIN TELEPHONE COMPANY - TENNESSEE

Effective January 1, 1987

Rate Category Description			Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
	A		(years) B	(%) C	(%) D	(%) E	($) F
212	BUILDINGS		-	-	18.9	2.7	-353
221	MANUAL		3.0	-2.0	8.6	31.1	0
221	STEP-BY-STEP	+	1.9	2.0	61.3	10.0	934
221	CROSSBAR	+	2.0	1.0	36.9	10.4	1935
221	AUTO SW ETS-4		-	-	91.4	-	@
221	CIRCUIT		11.3	15.0	31.9	4.7	42
221	CIRCUIT ETS-4		-	-	77.1	-	@
221	RADIO		7.1	0.0	44.5	7.8	-32
221	MOBILE		-	-	30.0	10.0	-
221	ELECTRONIC		14.1	0.0	16.9	5.9	218
221	AMRE		2.4	-2.0	46.2	23.3	0
231	SUB MX EQ		-	-	31.2	9.3	-43
231	LINE COND EQ		-	-	55.7	13.7	0
235	PUBLIC TELEPHONE EQ		-	-	38.5	9.3	-20
241	POLE LINE		16.5	-20.0	30.8	5.4	-233
242	AERIAL CABLE		18.6	.2.0	27.9	3.8	-98
242	UNDERGROUND CABLE		22.0	0.0	29.0	3.2	103
242	BURIED CABLE		15.9	-1.0	31.2	4.4	145
242	SUBMARINE CABLE		2.0	0.0	100.0	5.7	0
243	AERIAL WIRE		10.6	-50.0	61.1	8.4	-10
244	UNDERGROUND CONDUIT		-	-	20.0	2.0	-133
261	FURNITURE + OFFICE EQ		15.8	6.0	14.2	5.1	-28
261	DAT PROC COMPUTERS		-	-	34.0	17.2	0
262	CO USED STATION EQ		-	-	37.9	13.2	-42
264	VEHICLES		5.8	15.0	32.0	9.1	-65
264	SP PUR VEH + OWE		-	-	27.4	5.6	-66

@ Amortizations ordered in FCC 86-603, released January 22, 1987, are continued.

+ Amortization of reserve imbalance over a 2 year period effective July 1, 1987.

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

FEDERAL COMMUNICATIONS COMMISSION
Schedule of Annual Percentages of Depreciation for
WISCONSIN BELL INC

Effective January 1, 1987

	Rate Category Description	Average Remaining Life	Future Net Salvage	12/31/86 Book Reserve*	Remaining Life Rate	Annual Amort. Expense#
		(years)	(%)	(%)	(%)	($)
	A	B	C	D	E	F
212	BUILDINGS	31.0	5.0	17.9	2.5	-193
221	COE - STEP-BY-STEP	-	-4.0	104.0	7.3	0
221	COE - CROSSBAR	0.8	-7.0	92.1	18.6	0
221	COE - CIRCUIT	6.3	10.0	28.4	9.8	4977
221	COE - CIRCUIT DDS	5.7	9.0	25.5	11.5	193
221	COE - RADIO	10.4	8.0	23.4	6.6	-768
221	COE - ELECTRONIC ANALOG	9.7	6.0	35.9	6.0	6357
221	COE - ELECTRONIC DIGITAL	13.2	6.0	9.9	6.4	237
231	STA APP - TELE & MISC	6.9	5.0	-2.2	14.1	-2
234	LARGE PBX - OTHER	4.0	3.0	55.9	10.3	0
234	LARGE PBX - DDS	3.6	14.0	56.9	8.1	0
235	PUBLIC TELEPHONE	4.2	-10.0	44.3	15.6	0
241	POLE LINES	16.4	-60.0	54.5	6.4	-65
242	AERIAL CABLE	13.0	-5.0	32.3	5.6	1724
242	UNDERGROUND CABLE	19.9	10.0	24.4	3.3	1056
242	BURIED CABLE	15.6	-1.0	29.4	4.6	2065
242	SUBMARINE CABLE	14.8	2.0	34.9	4.3	-14
243	AERIAL WIRE	4.2	-42.0	19.2	29.3	0
244	UNDERGROUND CONDUIT	43.0	-40.0	34.4	2.5	2938
261	F&OE - FURNITURE	11.9	19.0	16.4	5.4	-60
261	F&OE - COMPUTERS	2.9	2.0	48.8	17.0	0
262	OTHER COMM EQUIPMENT	4.7	-5.0	72.0	7.0	0
264	V&OWE - MOTOR VEHICLES	3.3	10.0	55.3	10.5	0
264	V&OWE - OTHER WORK EQPT	8.3	4.0	29.3	8.0	-6

* For accounts in which amortization expense figures are shown in Column (F), Column (D) contains the theoretical reserve percentage.

Reflects amortization of the January 1, 1987 reserve imbalances over a five-year period.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Annual 1988 Access
Tariff Filings

MEMORANDUM OPINION AND ORDER

Adopted: December 24, 1987; Released: December 24, 1987

By the Chief, Common Carrier Bureau:

I. EXECUTIVE SUMMARY

1. In their annual access tariff filings, the local exchange carriers are required to file just and reasonable rates that comply with Commission Rules and recover no more than their allowed rate or return, based on reasonable projections of cost and demand. Our review of the tariffs filed to be effective January 1, 1988 has disclosed various specific instances in which unlikely or erroneous projections would, if not corrected, produce excessive rates for the switched access used for ordinary long distance services.

2. The most important correction is for the industry's projection of demand. Although actual growth in interstate access minutes will be about 14 percent in 1987, and has ranged between 9.7 and 12.7 percent in recent years, the filed tariffs project actual growth of only about 3.5 percent, assuming constant long distance rates. Even if this growth projection were updated to reflect more recent demand and adjusted to reflect the major long distance rate reductions in recent years, the industry demand projections are clearly and substantially understated. We have also identified numerous required corrections to claimed switched access costs, notably to reduce claimed depreciation expenses.

3. The many substantial changes in rules affecting access rates present particular difficulties for the calculation and review of this year's access rates. The effect and importance of these changes are possibly greatest for special access. The carriers propose in aggregate substantial increases in special access rates, in large part as a result of projections that revised accounting, separations, and access rules will increase the special access revenue requirements. Our review of the tariffs and support material indicates that many of the large carriers have failed properly to follow one or more of the revised rules, and that these errors are likely to overstate special access rates and revenue requirements. Many carriers also use demand projections which also appear questionable. Because calculation of appropriate corrections does not appear feasible, we have concluded that it is necessary to investigate special access rates where the carriers appear not to have followed the Rules, and, in the interim, to suspend increases for two months or until the carriers file acceptable replacement transmittals

4. The proposed tariffs also present substantial issues regarding the accuracy of the carriers' allocations of costs to their nonregulated activities, and even of the extent to which carriers have followed their own pending manuals for such allocations. This is an area of especial concern, because carriers have significant incentives to shift costs to regulated services, the identification of such behavior requires much vigilance, and the result, if uncorrected, would be both excessive long distance rates and unfair competition in nonregulated activities. In this Order, we establish an investigation to identify and strictly disallow any improper costs.

II. INTRODUCTION

5. In this Order, we review proposed revisions to the rates for access to local telephone facilities and services provided by local exchange carriers (LECs). To understand these revisions, and the material filed by the LECs in support, it is necessary first to understand the basic rate methodology mandated by the Commission's access charge rules.

6. Essentially, access rates are intended to reflect the underlying costs of originating and terminating interstate, interexchange services. Access rates are therefore developed from basic cost data by a sequence of procedures, each governed by Commission Rules. Actual company expenses, investment, and revenues are first booked according to the Uniform System of Accounts (USOA). Items associated with non-regulated activities (*e. g.*, sale or lease of customer premises equipment and non-telephone company businesses) are removed from these costs. The remaining regulated amounts are then separated to apportion costs and revenues between the state and the interstate jurisdiction. Intrastate costs are recovered by rates subject to regulation by state or local regulatory bodies. Costs allocated to the interstate jurisdiction are correspondingly subject to regulation by this Commission. A portion of the allowable interstate costs should be recovered by other non-access interstate services, *e. g.*, toll services provided under separate tariffs or billing and collection services provided to interexchange carriers under contract.

7. Costs associated with interstate access are distributed to individual access rate elements specified in Part 69 of the Commission's Rules and specific access rates are then calculated, generally by dividing these costs by the anticipated demand. The LECs in each case project the costs and demand for the year in which the rates are expected to be in effect, and are required to target the rates to earn no more than the authorized rate of return, currently 12.0 percent.

8. Non-traffic sensitive (NTS) plant, which consists primarily of the poles, wires, conduit, and other facilities used to provide the telephone "loop" to local customers, is by far the largest interstate access cost element, both because of the amount of such facilities and because the Separations Manual basically allocates 25 percent of such costs as interstate. *See* 47 C.F.R. § 67.124(d)(5). These costs are currently pooled in the Common Line (CL) pool, administered by the National Exchange Carrier Association (NECA) and recovered by access rate elements, assessed either directly upon local subscribers in the form of End User Common Line (EUCL) charges and special access surcharges, or by the Carrier Common Line (CCL) charge. The CCL charge is computed by NECA to recover CL costs not recovered by other rate elements, and is assessed primarily on interexchange carriers (ICs), who in turn recover the charge from their customers through

interstate long distance rates. For traffic sensitive (TS) rate elements designed to recover costs of using local exchange facilities to switch and transport calls to long distance carriers, exchange carriers may either join a NECA pool or file tariffs based on separate, individually-calculated rate elements.

9. Carriers filing access tariffs are required to refile those tariffs each year to update the cost and demand data used to compute rates, and to implement changes in the access rules and other applicable regulations. The rates are retargeted to recover predicted future expenses for the year in which the rates will be in effect and no more than the authorized rate of return on allowable interstate investment. The filings are required to include the same justification and cost support required of other dominant carriers, 47 C.F.R. § 69.1(b). This includes a past-year cost of service study and a projection of costs. 47 C.F.R. § 61.38. As part of this support data, carriers are required to provide certain basic data in the consistent format established by the Commission's Tariff Review Plans (TRPs). *See* Commission Requirements for Cost Support Materials To Be Filed with 1988 Annual Access Tariffs, Mimeo No. 4219, released July 30, 1987 (*Cost Support Order*). All requests for waivers of Commission Rules were to be submitted prior to the filings and waivers found to be justified were granted in *Annual 1988 Access Tariff Filing Petitions for Waiver*, DA 87-1269, released September 3, 1987 (*Waiver Order*).

10. The LECs' October 2 transmittals represent the fourth general access tariff filing. In addition to revising the rates to reflect likely changes in costs and usage in calendar year 1988, exchange carriers are also required this year to implement numerous substantial changes in Commission Rules and procedures, at virtually every stage of the rate development process. Because of the number and magnitude of these changes, it should prove useful to list and briefly summarize these altered requirements before discussing the filings themselves.

A. ***Revised Uniform System of Accounts (USOA)***

11. Effective January 1, 1988, the Commission has adopted a comprehensive revamping of the USOA. Revision of the Uniform System of Accounts and Financial Reporting Requirements for Class A and Class B Telephone Companies, CC Docket No. 78-196, 51 F.R. 24745, July 8, 1986 and 51 F.R. 43493, Dec. 2, 1986, *reconsideration*, 2 FCC Rcd 1086 (1987). These revisions, embodied in Part 32 of the Commission's Rules, are especially noteworthy because the revisions not only revise and replace many existing accounts, but also embody a change in the concept of cost assignment. The new USOA disaggregates and realigns the balance sheet and income statement accounts so that they will be more reflective of technical distinctions and of actual products and services. The USOA revisions will accordingly have the effect of shifting costs assigned to various accounts, and thus will indirectly affect the rates for individual rate elements and services.

B. ***Implementation of Generally Accepted Accounting Principles (GAAP)***

12. The Commission also revised the USOA to implement accounting standards for regulated companies that are more closely aligned with standards applied to other businesses, by adopting what are known as Generally Accepted Accounting Principles (GAAP). Revision of the Uniform System of Accounts for Telephone Companies To Accommodate Generally Accepted Accounting Principles, 50 F.R. 48408, Nov. 25, 1985) (*GAAP Order*). Implementation of GAAP will, among other changes, require capitalization of certain lease payments currently treated as expenses.

C. ***Pensions***

13. The Commission has determined that accounting guidelines from the Financial Accounting Standards Board (FASB) are incorporated into GAAP. Use of Certain Generally Accepted Accounting Principles in Part 32 of the Commission's Rules, RM-5835, adopted Oct. 20, 1987. Thus, the January 1, 1988 date for implementation of the new USOA is also the effective date for a change in pension accounting methods established in FASB Statement of Accounting Standards No. 87 (SFAS-87).

D. ***Tax Reform and Depreciation Reserve Deficiency***

14. The Tax Reform Act of 1986[1] enacted numerous changes in the Internal Revenue Code as it applies to local telephone companies, including a reduction in the marginal tax rate for corporations from 46 percent to 34 percent and repeal of the regular investment tax credit on new investment. Overall, the effect of the Act is to reduce LEC revenue requirements significantly, though by amounts which will differ from company to company. The Commission is currently considering a proposal first detailed in a Commission staff study which would effectively allow LECs to apply a portion of the tax savings to correct deficiencies in their depreciation reserve accounts. Amortization of Depreciation Reserve Imbalances of Local Exchange Carriers, CC Docket No. 87-447, Notice of Proposed Rule Making, FCC 87-313, released Oct. 5, 1987. In describing acceptable assumptions for this access tariff filing, the Common Carrier Bureau accordingly stated that it would accept depreciation computations based on the assumption that the Commission will adopt a five-year amortization of reserve deficiencies. *Cost Support Order* at para. 20.

E. ***Costs of Nonregulated Activities***

15. In Separation of Costs of Regulated Service from Costs of Nonregulated Activities, CC Docket No. 86-111, 2 FCC Rcd 1298 (1987) (*Joint Cost Order*), the Commission adopted new rules establishing standards to prevent carriers from imposing costs of the carriers' nonregulated activities upon ratepayers for regulated services. Large carriers were required to submit cost allocation manuals consistent with the Rules by September 1 of this year. The *Cost Support Order* stated that carriers could assume that the manuals would be approved for purposes of preparing their 1988 access filings.

F. ***Jurisdictional Separations***

16. Acting upon recommendations of a Federal-State Joint Board, the Commission has adopted a new Separations Manual, embodied in Part 36 of the Commission's Rules, to govern the separation of costs between the intrastate and interstate jurisdictions. MTS and WATS Market Structure, CC Docket Nos. 78-72, 80-286, and 86-297, 2 FCC Rcd 2639 (1987). Individual LECs can be expected to experience substantial changes in cost allocations as a result of the various and detailed changes effected by the new Part 36 Separations Manual.

G. *Access Charge Rules*

17. The Commission also has revised the Part 69 Access Charge Rules to bring them into conformance with the changes in the Separations Manual and the USOA. Amendment of Part 69 of the Commission's Rules and Regulations, Access Charges, To Conform It With Part 36, Jurisdictional Separations Procedures, CC Docket No. 87-113, 2 FCC Rcd 6447 (1987) *Part 69 Conformance Order).* In addition to these revisions, the Commission also attempted to make the annual access tariff filing process more manageable for all concerned by limiting carrier-initiated tariff changes in the annual filings to changes in rates. To reduce the burdens of tariff review during the period that the annual access tariffs must be processed, changes in tariff terms, conditions, *etc.*, are to be proposed, at the carrier's initiative, in separate filings. The tariffs will also be somewhat simpler because the Commission collapsed three end office rate elements into a single Local Switching element. The current separate Local Switching 1 and Local Switching 2 rate elements are included in this combined element; the rate differential between the Local Switching rates when used for Local Switching 1 and Local Switching 2 type services will be eliminated over a five-year period.[2] For the first year of this transition, the end office element rate for services using Local Switching 1 is to be 78 percent of the rate for services using Local Switching 2.

H. *Rate Base*

18. The Commission also adopted an Order on December 17 clarifying the requirements for computing the interstate rate base and allowable interstate expenses. *See* Amendment of Part 65 of the Commission's Rules To Prescribe Components of the Rate Base and Net Income of Dominant Carriers, Report and Order, CC Docket No. 86-497, FCC 87-391, adopted Dec. 17, 1987 (Rate Base Order). These requirements are not radically different from procedures that have been used in the past for most interstate rate computations. The *Rate Base Order* does, however, require adjustments in some access rate computations of some LECs.

III. HISTORICAL RESULTS AND TRENDS UNDER CURRENT TARIFFS

19. Careful evaluation of the actual historical results serves important purposes in our review. First, the historical results provide a baseline from which to identify and evaluate the incremental changes projected by the LECs for the test year during which the new rates will be in effect. Second, the historical results provide information necessary to evaluate the reliability and accuracy of earlier forecasts and of the Commission's own review and adjustments to proposed rates. LECs whose forecasts were inaccurate in earlier years warrant special scrutiny, especially if they have consistently forecast inaccurately high costs or low demand. And third, as additional data are added year by year, the Commission, the LECs, and the public acquire the ability to identify and monitor industry trends, both in aggregate and for individual LECs.

20. To provide a common baseline and the proper forecast period for these filings, this Bureau in the *Cost Support Order* directed that the LECs' past year cost of service (PYCOS) study use the most recent period for which actual data were likely to be available, July 1986 through June 1987.[3] The data submitted by the LECs for the PYCOS period indicate that the NECA and LEC computations and Commission adjustments resulted in overall rates which closely matched allowable levels, although some individual LECs show wide variations, both overall and for individual rate elements. The total calculated interstate access requirement for large telephone companies was $18.847 billion and the reported revenues were $18.693 billion, so that total revenues were $154 million below the authorized level, based on the LECs' accounts and calculations. Although a number of factors need to be considered to comprehend these figures, [4] the net result of revenues within about 8 tenths of 1 percent of the target seems a close match.

21. Most individual LECs also fall relatively close to the target, but there were notable exceptions. Northwestern Bell was 9.0 percent over target or $49 million, the largest reported overearnings both as a percentage and total. Ten companies in all reported revenues of 1 percent or more above target, as listed in Table 1.

Table 1: Past Year Cost of Service Study Overearnings Tier One Companies, July 1986 through June 1987 ($ in thousands)

Company	Access Rev. Req.	Access Revenues	Access Over-earnings	% Over-earnings
North-western Bell	$542,501	591,349	48,848	9.00%
Contel of Cal.	46,562	49,853	3,291	7.07%
Hawaiian Tel. Co.	95,657	101,870	6,213	6.50%
Lincoln Tel. Co.	30,404	31,729	1,325	4.36%
Contel of Texas	24,584	25,543	959	3.90%
United Inter-Mountain	29,964	30,780	816	2.72%
C&P of West Virginia	116,429	118,593	2,164	1.86%
Carolina Tel. & Tel.	83,960	85,005	1,045	1.24%
Pacific Northwest Bell	451,606	456,825	5,219	1.16%
GTE of the Southwest	230,567	233,128	2,561	1.11%

IV. THE PRESENT FILINGS

A. *Proposed Rate and Revenue Requirement Changes*

22. Changes in access rate elements in this annual filing from those currently in effect should reflect one of three factors: general trends influencing local exchange costs and demand such as economic growth and inflation, adjustments to retarget rates earning above or below the target 12.0 percent rate of return, and the various effects of the comprehensive changes in Commission rules affecting access. These rule changes obviously present the greatest difficulties for computing and reviewing the rates, because they make it difficult to compare the proposed rates to the historical baseline.

23. In the present filings, the LECs propose access rate changes which would reduce total access rates by $151 million or 0.7 percent, but would include noticeable increases for many individual rates. Slight overall reductions are proposed for multiline business End User Common Line (EUCL) charges. For ICs the Carrier Common Line (CCL) rate is the source of the rate reduction. NECA proposes to reduce the originating premium CCL rate from the current 0.69 cents per minute to 0.23 cents. The terminating CCL rate would continue to be 4.33 cents. This represents a reduction of $438 million or 7.3 percent overall. Other switched access rate elements would increase slightly; the LECs calculate the total increases as amounting to $62 million or 0.8 percent. Major increases are proposed for special access. Special access rates would increase by $262 million or 8.8 percent. These rate changes are summarized in the following table:

Table 2: Summary of Proposed Rates
Annual 1988 Access Tariff Filings
($ in millions)

	1988 revenues at current rates	1988 revenues at proposed rates	Change	% Change
End User CL	$4,478	$4,441	($37)	-0.8%
CCL	6,000	5,562	(438)	-7.3%
Switched TS	7,172	7,234	62	0.8%
Special	2,991	3,253	262	8.8%
Total	20,641	20,490	(151)	-0.7%

24. These rate changes in turn are based upon the LEC forecasts of changes in revenue requirement from the historical baseline. The most useful summary of these changes has been provided by AT&T. *See* AT&T Petition, Appendix F. Historical year revenue requirements in the PYCOS are calculated based in part upon the higher federal corporate tax rates and higher allowed rate of return during that period. It is necessary to adjust historical revenue requirement accordingly to isolate the forecasts of growth and rule changes.

25. As adjusted, the LECs overall project that interstate access revenue requirement will increase by 5.12 percent on an annual basis. Of this 3.23 percent represents growth and 1.89 percent the effects of various rule changes. A noteworthy feature of the LEC projections is that the LECs also project substantial shifts in interstate revenue requirement from non-access services such as LEC provided interstate toll and billing and collection to the access services. These projections are summarized in Table 3.

Table 3: Projected Interstate Revenue Requirements
Impact of Growth and Rule Changes
($ in millions)

	A Adjusted PYCOS Rev. Req.	B Proj. Rev.Req. Current Rules	C % Ch. Growth	D Proj. RR New Rules	E % Ch. Total
Access	$17,992.4	18,865.3	4.85%	19,373.6	5.24%
Non-Access	1,068.3	935.4	(12.4%)	685.7	(35.8%)
Total	19,060.7	19,800.7	3.88%	20,059.3	7.68%

[Notes: Historical revenue requirement is recast at a 12% rate of return and a 34% tax rate.]

[Percent change in Cols. C and E are annualized to reflect the fact that the PYCOS year begins 18 months before the beginning of the test year. The adjustment is made by dividing the actual percent change calculated from Cols. A, B, and D by 2/3.]

26. The other major set of numbers which must be projected accurately to develop reasonable rates is demand for the various access elements. For switched access, NECA projects that CCL demand will grow by 8.15 percent on an annual basis. Overall, it forecasts 222.972 billion CCL minutes of use in 1988, as compared with 198.695 billion in the PYCOS year. Total traffic sensitive (TS) demand is higher than CCL demand, reflecting the fact that the closed ends of WATS and 800 Service generally use local switching but have not been assessed CCL charges since the implementation of direct jurisdictional assignment of these lines effective July 1, 1986. For special access, the LECs generally project substantial declines in voice grade demand, which represents the great majority of circuits, offset by substantial increases in high capacity circuits. The projections vary widely among carriers, but the Bell Operating Companies (BOCs) on average project voice grade usage to fall by 13.65 percent and high capacity usage to increase by 14.11 percent.

B. ***Petitions and Comments***

27. Petitions and comments relating to the proposed access tariffs, and the NECA and LEC replies, were received subject to the normal schedule for tariff filings in Section 1.773 of the Commission's Rules, 47 C.F.R. § 1.773. We also recognized, however, the special difficulties presented by these filings, including the volume of tariff changes and support material, the late submission of some support material and corrective errata, and the limited statutory period within which the Commission must conclude its initial review of the transmittals and comments. Based upon these factors, this Bureau decided to allow one further round of supplemental comments following the LEC replies. This Bureau denied a request that the LECs be allowed to file supplemental replies. Annual 1988 Access Tariff Filings, DA 87-1672, adopted Nov. 12, 1987. The NYNEX Telephone Companies nevertheless filed a motion for leave to file supplemental comments, accompanied by a supplemental reply on November 27, 1987 and the Ad Hoc Telecommunications Users Committee filed a corresponding motion for leave to file a response to NYNEX and their proposed response on December 7. For the reasons stated in this Bureau's November 12 Order we deny both motions. Neither of these comments has been considered. The petitions, comments, replies, and supplemental comments which were considered are listed in Appendix D, along with the abbreviations we have used in identifying these submissions.

28. The petitions raise numerous specific challenges to the assumptions and methods used by the LECs in developing their proposed rates. We discuss these issues, and the LEC replies, in detail below. A number of the comments also present more general concerns, urging for example that the impact of the rule changes warrant special review of proposed rate increases, because of the potential consequences of the access rates for interexchange carriers. *See , e. g.*, Petitions of ALC at 2-8, USTS. Commenters also note that individual LECs project widely varying effects in some cases, which is said to call into question their consistency in implementing the rule changes. For

example, US Sprint observes that the shift in Part 69 Rule allocation of General Support Facilities (GSF) investment from common line to special access, while expected, varies from a 12 percent increase in the size of the resulting GSF special access investment by New York Telephone to a 109 percent increase by BellSouth - Florida. Other petitions contend that changes in the Part 69 Rules have the unintended and unwarranted effect of substantially increasing special access rates. These commenters request suspension of the increases, or some other form of stay or relief pending Commission consideration of petitions to reconsider those Rules. *See* Petitions of Western Union at 62-69, USTS, SATNET, ARINC at 19-24, Ad Hoc at 6-29, ICA.

29. We have denied a request to stay the effectiveness of Part 69 Rules that produce a shift in revenue requirements between special access and other access elements. *See Part 69 Conformance Order*. In view of that decision we will not consider arguments that the access tariffs should be suspended or rejected in whole or in part because some or all of the changes in the Part 69 Rules should not be implemented at this time. Petitions to suspend or reject are denied to the extent that the petitions are based upon that contention.[5]

V. ANALYSIS AND DISCUSSION

A. *Budget Views*

30. MCI contends that problems in the carriers' expenses cause access rates to be excessive, noting in particular projected increases in commercial/marketing expenses and maintenance, MCI Petition at 13-21. In part these projected increases appear explainable by changes in the accounting rules. *See* , *e. g.*, Ameritech Reply at 6-10. Projection of expenses at a reasonable level is of course an extremely important part of access rate development. In order to evaluate the carriers' budget view projections of expenses, especially in relation to whether their projections appear reasonably consistent with historical trends, we have undertaken a statistical analysis of the carriers' projections. To eliminate the effects of accounting changes, this analysis was performed on a Part 31 basis for both historical and projected expenses. To eliminate effects associated with depreciation expenses, which we discuss separately, *infra*, we directed this analysis to Total Expenses Less Depreciation, as presented in the TRPs, Item 320, COS-7.

31. Evaluation of companies' expenses is undertaken on a "total company subject to separation" basis, *i. e.*, after removal of nonregulated expenses but prior to separation to the interstate jurisdiction. Evaluation on this basis avoids problems associated with companies' treatment of nonregulated expenses. *See* Section V.C, *infra*. Evaluation of companies' expenses is undertaken on a hypothetical Part 31 basis for both historical and projected expenses, in order to eliminate the effect of accounting changes.

32. In addition, the statistical analysis is limited to expenses less depreciation (ELD). The use of ELD (*i. e.*, operating expenses) rather than total expenses is advisable because companies' depreciation expenses are reviewed separately from other expenses. *See* Section V.E, *infra*. Also, tests are made on an operating company level because, in most cases, the operating company is the corporate entity responsible for making projections of operating expenses. Review of operating expenses on an operating company basis places the responsibility for accurate forecasting directly on the operating company, where it belongs.

33. In order to determine the reasonableness of each Tier 1 company's 1988 forecast of expenses, we have performed several tests. Two of the tests determine the accuracy of each company's previous forecasts. The third test determines whether each company's forecast departs anomalously from an historical trend based on that company's forecast of expense data. The result of these tests determines whether a company's forecast of expenses for 1988 should be subject to adjustment.

34. In the Order Designating Issues for Investigation in the 1985 annual access tariff proceeding (*April 14, 1986 Order*), [6] we stated:[7]

> The Bureau is engaged in an ongoing process of review of the LECs' operating statistics. Such review consists basically of two functions: forecasting and monitoring. We forecast certain test year operating statistics in order to judge the reasonableness of access rates which LECs propose and the cost support on which the rates are based. We monitor various historical operating statistics in order to evaluate retrospectively the accuracy of the LECs' (and Bureau's) forecasts. We believe that there should be a close connection between forecasting and monitoring. Forecasts made by the LECs should be subject to retrospective scrutiny so that definitive conclusions may be reached concerning their accuracy. As a result of such monitoring, both the industry and the Commission will accumulate a body of knowledge that may enable them to improve the accuracy of test year forecasting and ratemaking. Such monitoring will allow the development of a "track record" concerning the accuracy of each company's cost support material. Such a track record can be used to encourage each LEC to improve the accuracy of its forecasting and enable the Commission to focus on problem topics or companies. We believe that this kind of monitoring can play an important part in the tariff review process. A process which retrospectively evaluates LEC forecasts likely will play a key role in rationalizing and expediting the review of LECs' proposed tariffs.

Enough information has been accumulated during the last few years to enable the Commission to begin using the "track record" of each Tier 1 company's previous expense forecasts for judgments concerning the credibility of the company's proposed forecasts. We have a complete record concerning the accuracy of each Tier 1 company's expense forecasts for the second annual access test year (June 1985-May 1986).

35. For the first two tests, 1985-86 test year data are extracted from the 1987 TRP. The extracted data consist of ELD forecasts and actuals for the second test year. Forecasts may exceed actuals by as much as 3 percent before a finding of overforecasting is made. ELD data on a total company subject to separations basis and also on an interstate basis are tested. *See* Table 1 in Appendix C for a list of companies which failed each test.

36. The third test determines whether a company's forecast departs anomalously from its own historical ELD experience. Each company's forecast of ELD (on a total

company subject to separations basis) is compared to a simple linear trend of that company's ELD quarterly actuals from the first quarter of 1984 through the second quarter of 1987. Forecasts are found to be anomalous only if they exceed the upper bound of the 95 percent confidence interval of the trend line. *See* Table 2 in Appendix C for a list of companies which failed the test.

37. No single test determines whether a company's forecast is subject to adjustment. A company's forecast is subject to adjustment only if the company fails both the trend test and the "report card" tests. *See* Table 1 in Appendix C for a list of companies' forecasts which are subject to adjustment. The amount of the adjustment that is made to these forecasts is sufficient to lower the forecast to the upper bound of the confidence interval. Adjustment is made only if the amount of the adjustment is equal to or greater than 1 percent of the company's forecast.

38. We regard the criteria for both testing the reasonableness of the companies' forecasts and for determining the adjustment amount for the forecasts that are found to be unreasonable to be conservative. Determining a reasonable confidence interval is a difficult judgment. Adjustment to the upper bound of a 95 percent confidence interval allows the company great margin for error. One reason we have decided to allow companies such a large margin is because their "track record" consists only of performance for one test year. As the track record of companies becomes clearer in future years, we may revise the size of the confidence interval.

39. Only three companies' forecasts have been adjusted. The adjustments have been calculated on a percentage basis and the percent adjustment has been flowed through for application to the common line, switched and special access categories.

B. *Uniform System of Accounts (USOA)*

1. Mapping of Part 31/32 Accounts

40. In the *Waiver Order*, we required each Tier 1 and Tier 2A carrier to provide a chart mapping the relationship between the old Parts 31 and 33 and new Part 32 USOA accounts. We required that the mapping be in matrix form, and that it specify the relationship between the old and new accounts for all accounts relevant to the ratemaking process. The mapping was not required to contain numerical data. *Id.* at para. 40.

41. In its petition, MCI requests that the Commission order the carriers to provide a quantitative mapping of Parts 31 and 33 to Part 32. This mapping, MCI argues, should list the absolute dollars that each account represents, permitting the Commission to track each carrier's accounting for its investment and expenses.

42. The requirement that LECs include a mapping of the old Part 31 to the new Part 32 accounts, but without providing actual numbers in each set of accounts, was intended to strike a reasonable balance in dealing with a difficult problem. Individual LECs use different subaccounts and have different mixes of plant and services. Recategorizing investment, expenses, and revenues under Part 32, while a difficult task for all LECs, will also be difficult in different ways. This is particularly the case because Part 32 embodies a change in the concept of telephone plant accounting. Moreover, the calculation of what current accounts would be numerically under Part 32 is not necessarily a step that LECs would take in developing their 1988 projections. Those projections might well be made simply by applying the Part 32 Rules directly. In weighing the possible benefits of the many complex numerical estimates against the costs to the LECs of developing them, we also took into account the likelihood that such interpolations might well be unreliable even if the actual Part 32 accounting was reasonable. We see no reason to revise that judgment and do not direct the LECs to provide the additional information MCI requests.

2. Implementation of Part 32

43. Based upon the filed matrices, AT&T (Petition, App. D-11-2) claims that many LECs failed to implement Part 32 correctly. It claims for example that some LECs failed to flow expenses such as relief and pensions (Part 31 Account 672) and social security taxes (Part 31 Account 307) correctly to the new Part 32 accounts. In their mapping BellSouth, NYNEX, and Contel do not show that any Account 672 expense was assigned to Part 32 Account 6120, General Services Expense, even though the latter account includes wage expenses. Other LECs are claimed to show other apparent inconsistencies.

44. Many of the LECs in their replies acknowledge their matrices are in error, but claim that their accounts reflect a correct implementation of the Part 32 Rules. Pacific Bell filed an errata on November 6, 1987 to correct its errors. Other LECs, including US West, Contel, and United did not explain the apparent mapping errors.

45. Errors in the mapping matrix do not of themselves demonstrate that the LECs have implemented Part 32 incorrectly -- as noted above, assembling the matrix might represent an interpolation of results and might not reflect the actual Part 32 results. Nevertheless, the inability of many LECs even to map the accounts correctly clearly presents troubling concerns regarding the LECs' performance at the more difficult task of implementing the numerical accounting changes. In addition, errors in the mapping have seriously impeded effective review of the LEC filings.

46. We have identified a number of errors in the Part 31 to Part 32 conversion. Ohio Bell and New England Telephone both showed abnormal increases in their plant in service forecasts. In response to staff inquiries, both agree that they inadvertantly overstated interstate plant, Ohio Bell by about $21 million and New England Telephone by $6.5 million.

47. In addition, Bell Atlantic and US West agree that, as asserted by Western Union in its Petition at 12-13, they have improperly expensed furniture and equipment costing between $200 and $500 which Section 32.2000(a)(1) currently requires accounting as capital investments. Bell Atlantic (Reply, at Appendix A, Item 2) states that correction of this item will reduce its interstate access revenue requirement by $3.3 million in Delaware. In its comments in pending CC Docket No. 87-135[8] US West stated that expensing of items between $200 and $500 and amortization of the embedded base over three years (which US West also included in its access rates) would increase its 1988 revenue requirement by $28.2 million.[9] This amount apparently approximates its access revenue requirement overstatement.

C. *Nonregulated Activities*

1. Petitions

48. AT&T argues that there is substantial reason to believe that numerous LECs have not assigned all nonregulated costs to their nonregulated operations in accordance with their own Part 32 cost manuals. AT&T urges the Commission to investigate this matter. AT&T notes that the Tier 1 LECs have filed cost allocation manuals (CAMs) as required by the *Joint Cost Order*. These manuals set forth the carriers' principles and procedures for separating the costs of their regulated and nonregulated activities. This Bureau directed the LECs to use their proposed CAMs to segregate nonregulated costs from their regulated revenue requirement for purposes of the instant filing. AT&T contends, however, that a comparison of each LEC's CAM with its TRP indicates that many LECs failed to follow their own CAMs in assigning costs to their nonregulated operations. AT&T estimates that, in total, the LECs have erroneously failed to remove well over $100 million in nonregulated costs from total company revenue requirements or over $30 million in interstate revenue requirements. AT&T Petition at 57-58.

49. AT&T briefly summarizes some of the major alleged errors made by the LECs in this filing.[10] For example, AT&T states that GTE has not apportioned any costs to nonregulated operations in Florida, nor has Rochester apportioned any costs to nonregulated activities although its CAM lists eight different nonregulated activities that Rochester currently provides. In addition, AT&T states that several LECs fail to assign central office or other investment to nonregulated operation even though their CAMs indicate that nonregulated activities would use such investment. Finally, AT&T alleges that the LECs' assignments of costs to nonregulated activities in their TRPs fail to follow the specific allocation methodologies set forth in their CAMs. *Id.* at 58-61.

50. AT&T also argues that Bell Atlantic appears improperly to have allocated $13 million of account 6623, the local business office portion of customer services operations expense, to the regulated access elements instead of the detariffed billing and collection category. AT&T states that Bell Atlantic allocates less than 1 percent of these expenses to detariffed billing and collection. *Id.* at App. D-16, p. 1.[11] In addition, AT&T alleges that numerous other LECs have failed to account properly for costs related to non-regulated billing and collection activities. As an example, AT&T argues that the filed Part 31 to Part 32 mappings demonstrate that some carriers have failed to flow such expenses as revenue accounting, relief and pensions and social security taxes correctly to the new Part 32 accounts. In particular, AT&T is concerned that costs have been shifted from Account 6623, which, AT&T argues, should be assigned for the most part to the detariffed billing and collection service, to accounts allocated to tariffed access rate elements. AT&T argues that most of Part 31 Account 662-01 should have been assigned to Part 32 Account 6623 because both accounts primarily contain the costs of billing of customers and accounting for revenues. Yet, AT&T demonstrates that Account 6623 contains far less than Part 31 Account 662-01. AT&T Petition at App. D-10 and App. D-11-2. MCI claims that many LECs have substantially decreased the amount of investment and expenses allocated to interstate non-access services.[12] MCI observes that this implies that LECs may be shifting costs from non-access services, including billing and collection, to access services for which the LECs have no effective competition. MCI concludes that this issue warrants investigation. MCI Petition at 27-28.

51. ARINC argues that the Commission should require the LECs to explain with precision their plans for the development of enhanced services pursuant to *Computer III* [13] and the development of "Gateway" information services to be permitted by Judge Greene. ARINC contends that, because these services will be provided on an unregulated basis, carriers should be required to explain their investment and construction plans so as to permit the Commission to ensure that regulated service customers do not subsidize such services. ARINC also argues that the CAMs are not sufficient in themselves to ensure against cross-subsidization. Only by comparing the LECs' budget views regarding enhanced services and other unregulated services with the allocation procedures adopted by the carrier can parties determine whether the investments, expenses and revenues associated with unregulated services have been properly removed from the rate base, ARINC asserts. ARINC Petition at 9-10.

52. The LECs generally argue that AT&T is incorrect in its assertions that they have failed to allocate costs to nonregulated activities in compliance with the Commission's Rules and the LECs' own pending CAMs. Some of the LECs concede that, for a variety of reasons, they have failed to allocate certain costs of nonregulated activities properly. In these instances, the LECs uniformly claim that the amount of money involved is insignificant and would not alter the level of the proposed rates. In most cases, however, the LECs deny that they have committed any errors. Several carriers state that, although their TRP forms indicate no allocation to nonregulated operations, this is because such costs have already been removed from the carrier's total company budgets. Other LECs assert that they have allocated costs of nonregulated services using the methods approved for fully separated subsidiaries. These carriers sometimes also claim that they are continuing to offer nonregulated services on a fully-separated basis and that no joint plant is used. Some LECs also assert that they cannot imagine that using the procedures in their as yet unapproved CAMs would yield more reliable results than whatever methodology was actually used. They therefore urge us to deny AT&T's request that the pending tariffs be investigated on this basis.[14]

53. AT&T argues in its rebuttal that the LECs' replies do not dispel the need for an investigation. AT&T observes that several LECs simply ignore its specific showings of misallocation of nonregulated costs. According to AT&T, such carriers as GTE do not even attempt to refute its showings that the LECs failed to follow their own CAMs. AT&T also notes that the claim of some LECs that nonregulated costs were excluded from total company amounts is in clear violation of this Bureau's instructions in the *1988 TRP Order*.[15] Moreover, AT&T argues, the LECs' failure to supply any data on nonregulated costs makes it impossible to evaluate their claims that these amounts are minimal and thus would not affect rates even if they had been removed from total company amounts. Finally, AT&T contends that the LECs have failed to demonstrate that misallocated nonregulated costs identified by AT&T are in fact buried in another line item or account that was assigned to nonregulated service. AT&T Rebuttal at 36-43.

2. Discussion

54. We stated in the *1988 TRP Order* that although final action on the LECs' proposed Part 64 CAMs would not be complete before the LECs filed their access tariffs, they

should nevertheless follow the procedures set forth in their proposed CAMs in developing the pending tariffs. We noted that supplemental transmittals might be required to reflect any modifications required in subsequent Orders. It is abundantly clear from our review of the Tier 1 LEC filings and of the pleadings on this issue that the LECs did not follow Part 64 of the Commission's Rules or the procedures established in their proposed CAMs as we directed in the *1988 TRP Order*. Many of the LECs concede as much.

55. The LECs' explanations for their refusal to comply with our explicit instructions are singularly unsatisfying. The LECs' assurances that they will follow their CAMs once they are approved is utterly irrelevant to our review of the pending tariffs and is not particularly comforting in view of their non-compliance with our explicit instructions and their universal failure to request waivers. The LECs' statements that nonregulated investment has been removed from total company budgets or that the amounts involved are insignificant do not demonstrate either that they have complied with Commission rules or that their rates are reasonable.

56. The Commission has recognized that cross-subsidization of competitive, nonregulated services with revenues from regulated services clearly would be inconsistent with the mandate of the Communications Act that rates for regulated services be just and reasonable. In an effort to formulate policies and rules that would ensure that costs of nonregulated services would not be misallocated to regulated services the Commission conducted a lengthy proceeding which produced a voluminous record. The Commission concluded that the public interest would be best served by the rules adopted in the *Joint Cost Order*. It should be obvious from this brief historical review that the Commission views the threat of cross-subsidization with concern and takes seriously its responsibility to protect ratepayers for access services from excessive rates. Viewed in this context, the LECs' blatant disregard for the rules is especially troubling. The LECs do not allege in their tariff filings or in their replies to AT&T's petition that our instructions were in any way unclear or that they were for some reason unable to comply. In any event, had this been the case, the LECs would have been well-advised to file either a petition for clarification or for waiver of the requirements imposed by the *Joint Cost Order* and the *1988 TRP Order*. Of course, the LECs did not do this. Instead, they filed cost support data which in some instances make it impossible to determine whether any investment has been apportioned to nonregulated activities and which generally hinder, rather than assist, our efforts to review the proposed rates.

57. LEC claims that their nonregulated activites are too minimal to have a substantial effect upon access rates does not justify the LECs failure to comply with our instructions. Nevertheless, this is a factor to consider in devising remedial action. LECs will, of course, be expected to submit midcourse correction tariffs before any activity is transferred from a separate subsidiary or any new line of business is initiated. We do, however, still require an apportionment of revenues and expenses attributable to existing nonregulated activities such as the provision of inside wiring installation and maintenance. We are accordingly designating compliance with Tier 1 carrier cost manuals as an issue for investigation and are requiring each Tier 1 carrier to submit a complete explanation of the results produced by the application of its manual on or before March 15, 1988.

58. Furthermore, we have reviewed the access filings and the petitions and have found that the mappings to the new Part 32 raise some serious questions. Based upon the data available to us, it appears that the amounts being projected for Account 6623, Customer Services, may be considerably low. While some changes have been made with respect to computer maintenance and to billing systems development and maintenance that might affect some reductions in amounts, we would expect that overall the customer accounting function would continue to be the same as it was under Part 31. Those individuals involved in the actual billing function would continue to be so involved, and their salaries and associated costs would continue to be charged to customer services. Even when the billing function is not being performed by individuals in customer accounting but in, for example, an information processing services division, that division presumably would charge these individuals' time and expenses to customer billings. Based on the information available at this time, it does not appear that all of the allocations were made with this same understanding. The kind of detail necessary to examine this issue thoroughly and to make precise adjustments, however, is not available. In order to determine the correct allocations for billing and collection, and determine whether disallowances are necessary, we will require the LECs to provide further information detailing their treatment of these accounts, and include this issue in the investigation we establish in this Order.

D. *Jurisdictional Separations -- COE Category 3*

1. Interstate Assignment of Category 3 Central Office Equipment

(a) *Pleadings*

59. AT&T argues in its petition that the proposed tariff revisions raise significant questions about the LECs' apportionment of Category 3 central office equipment (COE). AT&T concludes that the Commission should institute an investigation of the LECs' interstate assignments of Category 3 under the new Part 36 separations rules. As part of the proposed investigation, AT&T urges the Commission to require the LECs to provide data detailing the calculation of the weighted average used to assign Category 3 COE to the interstate jurisdiction, the total company investment and interstate investment as of December 31, 1987, as assigned under the old Part 67 separations rules for Categories 4-7 COE. AT&T also argues that the Commission should require the LECs to provide their derivations of the total company and interstate Non-Traffic Sensitive and Traffic Sensitive portions of Part 67 Category 6 COE.

60. AT&T argues that the implementation of the new Part 36 rules would be expected to reduce the proportion of Category 3 COE apportioned to the interstate jurisdiction compared to the apportionment of such investment under Part 67.[16] In fact, however, AT&T states that the BOCs have, in aggregate, increased the amount of Category 3 COE apportioned to the interstate jurisdiction from $5.6 billion to $6.1 billion. AT&T contends that excessive allocations of Category 3 COE to interstate would result

in excessive Local Switching rates because Category 3 COE investment constitutes a substantial portion of the Local Switching revenue requirement.

61. In support of its request for an investigation AT&T states that it is not possible to determine from the tariff filings whether the increased interstate Category 3 COE allocations are justified. AT&T observes that the Commission recognized that the change in separations procedures would make it difficult to compare the LECs' separations allocations for 1988 with historical data. For this reason, AT&T states, this Bureau directed the LECs to document carefully their methods and display their numerical calculations. Nevertheless, AT&T states, the LECs have provided little of the data necessary to determine whether they have implemented Part 36 correctly. For example, AT&T contends that it is impossible even to verify some LECs' arithmetic in calculating the weighted average, let alone to evaluate the components used in the average.[17]

62. The LECs make three main responses to AT&T's contentions. First, a number of LECs argue that AT&T's concerns are simply unfounded. For example, Pacific states that it has correctly implemented the change in the rules for separating Category 3 COE. Pacific states further that its data demonstrate that its procedures are reasonable and states that AT&T's comparison of Pacific's current filing data with its October 1986 filing data is inappropriate. Pacific notes that its 1986 filing data were based on actual data from only four months -- January through April 1986. Pacific contends that it would be more appropriate to compare its current PYCOS results to its prospective hypothetical Part 31 results for 1988. This would demonstrate that the company has correctly assigned Category 3 COE under the new Part 36 rules, according to Pacific. Pacific Reply at 19-21.[18] Ameritech asserts that it has provided the necessary worksheets underlying its calculations to demonstrate that it has complied with Part 36. Ameritech Reply at 20.

63. Other carriers argue that AT&T's concerns are not relevant in the case of their particular filings. NYNEX, for example, states that it need not provide further information as requested by AT&T because both NYT and NET have filed substantial reductions in the proportion of Category 3 COE assigned to the interstate jurisdiction. NYNEX asserts that AT&T's analysis of the LEC increases in both Category 3 and Category 4.23 COE contains inaccuracies and has no merit. NYNEX Reply at 64-65. Similarly, BellSouth states that the support material underlying its filing demonstrates that the Part 36 test period allocator is lower for each BellSouth state than the 1987 Part 67 allocator. BellSouth Reply at 23-25.

64. Finally, Southwestern contends that there are valid reasons for the increase in interstate allocation of Category 3 COE detected by AT&T. Southwestern states that its NTS COE investment has increased faster than its TS investment due to the placement of digital switching equipment. A larger proportion of digital switches is classified as NTS. This increase in NTS investment has produced the 10 percent increase in COE investment allocated as interstate by Southwestern Bell. Southwestern Reply at 22-23.[19]

(b) *Discussion*

65. The Commission adopted a transition for the implementation of the new COE 3 allocation because the Docket 80-286 Joint Board found that the new formula would produce a substantial shift in revenue requirements from the interstate to the intrastate jurisdiction. The Commission obviously anticipated that some shift would occur in the first year of the transition. The Access charge computations of many LECs apparently produce the opposite result -- the projected interstate allocation for 1988 is greater than the interstate allocation of comparable Part 67 categories that is reflected in the 1987 access tariffs. There may be a logical explanation for this surprising result, but it clearly warrants further inquiry. We are not suspending or disallowing any COE 3 costs reflected in access charges, but we do require each LEC that claims increased COE 3 costs in its 1988 access tariffs to include a detailed and well-documented explanation of the reasons for the increase in the direct case that it submits in the investigation we are initiating in this Order.

2. Adequacy of Cost Support -- Part 36 -- New England Telephone

(a) *Pleadings*

66. AT&T also asserts that New England Telephone (NET) has failed to provide any cost support showing how it implemented the new separations procedures established by Part 36 of the Rules. AT&T states that, unlike carriers such as Southwestern, NET has not provided exhibits showing the development of its interstate investments, reserves, expenses and taxes. AT&T therefore urges the Commission to institute an investigation and contends that we should require NET to provide both total company and interstate data at the account and category level. In addition, AT&T recommends that the Commission direct NET to provide the basic study factors and other direct allocation factors, as well as the data necessary to support any adjustments to these factors. AT&T Petition, App. D-11-4 at 1.[20] In response, NYNEX argues that it has followed the Part 36 Rules and this is documented in volumes 1, 2 and 6 of its cost support materials. NYNEX Reply at 62-63.

(b) *Discussion*

67. Our review of the materials furnished in NET's cost support at volume 2-2, §§ 3 and 4 indicates that the data provided are too summary to allow meaningful review. NET provides nothing more than a two-page summary of interstate separations ratios for expenses and investment in each of its study areas. By comparison, the corresponding portions of Southwestern's cost support provide data at a much higher level of detail. *See* Southwestern Bell D&J, Vol. 2-2. Therefore, in order to allow the staff to determine whether NET has properly implemented the new Part 36 Rules, we will direct NET to file revised cost support data at a level of detail comparable to that filed by Southwestern Bell.

E. Depreciation

1. Depreciation Rates and Expenses

68. The petitions of both MCI (at p. 21-22) and AT&T (at p. 44-50 and App. D-1) challenge the projected depreciation rates and expenses of various LECs, alleging that many are overstated and some speculative, based on revisions to depreciation rates which have not been approved.

69. We have analyzed the depreciation and amortization expenses proposed by all the Tier 1 LECs and compared their forecasts with our own estimates of these expenses,

using either the depreciation and amortization rates currently prescribed by the Commission or revised rates which have been proposed by the staff for Commission represcription during 1987. Our analysis showed that a number of LECs have overestimated their depreciation expenses. As set out in Appendix F, a recalculation of the proposed depreciation expenses on this basis produces adjustments of $191 million, of which $95 million is attributable to the CL pool. The criteria used to identify overstated depreciation are conservative and essentially the same as those we used last year, and recognize that small differences in proposed expenses may reflect changes in the specific mix of plant balances. These criteria are that the proposed interstate depreciation expense be both $1 million and 5 percent greater than our estimates.

2. Amortization of Depreciation Reserve Deficiencies

70. Western Union objects to the inclusion in depreciation expenses of amounts to amortize depreciation reserve deficiencies, as proposed by the Commission in CC Docket No. 87-447. The additional depreciation expense is $276 million, of which about $48 million is said to apply to special access. Western Union asserts that the tariff review process is not an appropriate forum for arguing the merits of this Rule Making, but that the Commission should not permit these tariffs to go into effect if the Commission has not adopted the policy proposed in this Rule Making, because this would prejudge the issue. It also questions the claimed amounts.

71. The Bureau's *Cost Order* permitted LECs to assume that the amortization program would be approved by the Commission, but this permission only reflected the need for the LECs to have a common baseline and set of assumptions. Allowing this for purposes of the filing, or allowing rates based upon this assumption, would not prejudge the issue as Western Union suggests. These tariffs are based upon projections of events in the test year 1988 and, pending further Commission action or a better indication that amortization will not be allowed during 1988, that projection appears to remain reasonable and not a basis for further action at this time. If the Commission's final decision in CC Docket No. 87-447 differs from the assumptions used in computing depreciation expenses the LECs will, or course, be required to file midcourse corrections. Our examination of the LECs depreciation expenses, and deduction of excessive projections, also corrects errors associated with this amortization.[21]

F. *Part 69 Rules*

1. Equal Access Recovery Charges

72. This Bureau granted the LECs waivers of Section 69.4(b) of the Commission's Rules to establish a separate rate element for the recovery of equal access costs.[22] Permanent adoption of an equal access recovery charge (EARC) is currently under consideration in an ongoing Rule Making proceeding.[23]

(a) *Pleadings*

73. AT&T, US Sprint and MCI allege that the LECs have included improper costs in their equal access revenue requirements or have otherwise erred in computing these rates. US Sprint and MCI allege that BellSouth has targeted its EARC to earn in excess of 12 percent in Florida, Georgia, North Carolina, South Carolina, Kentucky and Tennessee. MCI further claims that US West has proposed EARCs designed to earn more than 12 percent for Northwestern Bell. US Sprint argues that Ameritech has raised its rates in Illinois and Michigan far in excess of the magnitude of increase that it predicts in lines converted to equal access during 1988. In addition, MCI argues that New York Telephone's rate is unjustly and unreasonably high on its face, and that the number of presubscribed equal access lines, which forms the basis of the charge, is understated. Finally, AT&T and MCI allege that Pacific Bell has improperly included investment and expenses associated with "BOC 800 Equal Access." AT&T claims that this service is an 800 database service and 800 database costs are not equal access costs. AT&T observes that the Commission has not determined the appropriate level or the proper recovery of such database costs. *See* AT&T Petition at 62-66; US Sprint Petition at 15-18; MCI Petition at 49-59.

74. BellSouth explains that its EARC rates have been set to recover only the authorized rate of return. According to BellSouth, MCI has used end of period investment and revenue amounts in its conclusion that the rate of return exceeds 12 percent. BellSouth says that the revenue requirements used for ratemaking, which are based on the average costs and rate base for the test period, yield a rate of return of exactly 12 percent. BellSouth Reply at 37-38. US West argues that MCI has miscalculated the South Dakota rate of return by using dollar amounts rounded to the nearest thousand, instead of actual dollar amounts. US West explains that this can make a significant difference because the South Dakota rate base is only $99,000. Overall, US West states that Northwestern Bell's rate of return is 11.99 percent, and that MCI was misled because there had been an error in US West's cost support. US West Reply at 39-41.

75. Ameritech contends that its EARCs are high in Illinois and Michigan because of the addition of significant equal access facilities, including a $4.6 million access tandem and many conversions of "non-conforming" central offices requiring higher than average per line expenditures. Furthermore, Ameritech claims that equal access expenses increase, even though access line conversions may decrease, because of the Commission-ordered eight-year amortization period for equal access costs, which will end on December 31, 1993. This amortization schedule eliminates any direct correlation between equal access expense and current equal access conversion. Finally, Ameritech argues that the petitioners have used data from July 1986 to June 1987 in their analyses, ignoring expenses incurred during the last half of 1987. Ameritech Reply at 24-27.

76. NYNEX admits that its EARCs need revision and proposes to increase the number of equal access lines used to calculate the EARC, reducing the New York Telephone Company rate by $0.01. NYNEX Reply at 118-119.

77. In its opposition, Pacific argues that the BOC 800 Equal Access costs are legitimate costs of providing equal access. Pacific intends to replace the interim 800 access services now offered with 800 database service, because BOC 800 service provides end users the ability to continue using the same 800 number regardless of which interexchange carrier provides their interLATA service. Pacific admits that these costs account for $11.1 million of the EARC revenue requirement. Pacific Reply at 11-13.

b. Discussion

78. This Bureau has reviewed the EARCs filed by BellSouth, US West, Ameritech and NYNEX and the pleadings filed by the above-listed petitioners and the responses. We find that no compelling argument has been presented that these charges, after making the revisions proposed by NYNEX, are so patently unlawful so as to require rejection and that an investigation of the revisions is not warranted at this time.

79. We are not persuaded, however, that the costs of BOC 800 Equal Access should be recovered through the Pacific EARC. The prior waivers were designed for the current interim 800 access service rather than the database service LECs expect to implement at some time in the future. Inasmuch as no database service is being offered at this time, these costs should not be included in any access rate. The costs associated with the development of 800 database services should be accumulated in Account 2004 "Telecommunications plant under construction - long term." Expenses that are not capitalized should be accumulated in Account 1439 "Deferred charges." Therefore, Pacific should remove the costs associated with its 800 database service from the 1988 revenue requirement.

2. Message Station Equipment Recovery Charge (MSERC)

80. In the Third Reconsideration of the Commission's *Access Charge Order*,[24] the Commission decided that some message station equipment[25] should be apportioned to the special access category based on the number of special access lines subject to the special access surcharge.[26] In *Investigation of Access and Divestiture Related Tariffs*, CC Docket No. 83-1145, Phase I and Phase II, Part 1, FCC 84-524, released Nov. 16, 1984, the Commission decided that the revenue requirement associated with this message station equipment should be recovered through a separate MSERC applicable only to those lines subject to the surcharge.

81. MCI argues that the MSERC should no longer be found in the 1988 access tariffs for any LEC because the Commission has required that investment in embedded customer premises equipment be reduced to zero by December 31, 1987.[27] MCI objects to the fact that Southern New England, Bell Atlantic, BellSouth, Southwestern Bell, US West, Nevada Bell, and Pacific Bell still have MSERCs. MCI Petition at 28-29.

82. The carriers reply that the MSERC rate element also recovers non-CPE, large PBXs, network channel terminating equipment (NCTE), and inside wire investment. The carriers claim that they have not included any CPE investment in these charges, in keeping with the transition adopted by the Commission. Nevertheless, they state, a continuation of the MSERC is appropriate. *See* e. *g.*, Pacific Reply at 4-5.

83. The carriers are correct that Part 69 still allocates certain message station equipment costs to the special access category. As such, we conclude that retention of the MSERC to recover those costs is reasonable.

3. GTE Corporate Operations Expense

84. Section 69.409 of the Commission's Rules requires that Corporate Operations Expense (Accounts 6710 and 6720) be apportioned in accordance with the Big Three Expense Factor. 47 C.F.R. § 69.409. The Big Three Expense Factor, as defined in Section 69.2(f) of the Commission's Rules, is the ratio computed by dividing the sum of the Big Three Expenses apportioned to each element or category by the combined Big Three Expenses. Section 69.2(e) defines the Big Three Expenses generally as (1) plant specific operations expense, (2) plant non-specific operations expense, and (3) customer operations expense.

85. AT&T alleges that it performed the Big Three Expense apportionment for GTE's corporate operations expenses, and that its results varied from those in the GTE tariff filing. AT&T claims that GTE has included approximately $7.2 million in its interstate access revenue requirement that should have been apportioned to non-access. AT&T Petition at App. D-9.

86. In its reply, GTE admits that it incorrectly included depreciation expense in its development of the Big Three Expense ratios. This resulted in incorrect apportionments of Corporate Operations Expense. GTE Reply at 8. On November 20, 1987, GTE filed Transmittal No. 328 to provide corrected rates resulting from the correction of the Big Three Expense allocation factor. The revisions proposed in Transmittal 328, which are the subject of a petition filed by MCI and which are currently scheduled to take effect on January 1, will be addressed in a separate Order.

G. *Docket 84-800 Issues*

87. ALC, MCI, and Sprint observe that US West has proposed to recover in the 1988 revenue requirement a 1987 earnings shortfall in Mountain Bell's switched access category. US West has proposed to inflate the 1988 revenue requirement by $16.061 million. Similarly, Contel proposes to recover a $550,000 earnings shortfall on switched access in Alabama. Petitioners argue that this proposed recovery is blatantly unlawful retroactive ratemaking. *See* , *e. g.*, ALC Petition at 9-11. In its opposition, US West claims that this recovery is permitted under the philosophy of CC Docket No. 84-800, in that an upward rate adjustment should be lawful so long as rates do not produce earnings in excess of the allowed rate of return for the total two-year measurement period. US West Reply at 4-13, 35-36. Contel argues that this recovery conforms to stated Commission policy and rules. Contel Reply at 35-44. Both carriers cite language from the Report and Order in CC Docket No. 84-800 that states that earnings peaks should be averaged with earnings valleys.[28] Both sides argue that the United States Court of Appeals for the District of Columbia supported their position in *New England Telephone and Telegraph Co. v. FCC*, No. 85-1087, slip op. (D.C. Cir. Aug. 23, 1987).

88. The Commission currently has before it an application for review of *Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, and Pacific Northwest Bell Telephone Company*, Tariff F.C.C. No. 1, Transmittal No. 6, Mimeo No. 7209, released Sept. 30, 1986. The application for review argues that rate increases designed to recoup past revenue deficiencies within the earnings period constitute unlawful retroactive ratemaking. Because the Commission has not yet decided the merits of the application for review and the issue is a significant one, we conclude that it is appropriate to investigate this issue as it relates to the US West and Contel filings and, in the interim, to suspend the effectiveness of their rates pursuant to Section 204(a) for the five-month statutory period. If these carriers elect to refile rates that remove the retroactive recovery of earlier shortfalls, we will terminate the suspension and this aspect of the investigation. This course is particularly appropriate

in an annual filing because the access rules specifically require that the return component for purposes of calculating the access revenue requirement be based upon the authorized annual rate of return, 47 C.F.R. § 69.2(z). The use of a different rate of return or the addition of an additional return component would appear to require a rule waiver which has not been requested or granted.

2. Refunds

89. Section 65.703(a) of the Commission's Rules states that refunds shall be effected automatically if a carrier's earnings for any category of services exceed the maximum allowable rate of return. Section 65.703(b) says that a carrier may make refund payments directly to customers. If direct payments are not made, refunds shall be effected by subsequent period reductions in the carrier's revenue requirements for the access elements that earned in excess of the maximum allowable rate of return. Section 65.703(e) requires exchange carriers to file tariffs reflecting the revenue requirement reductions effectuating the refund to become effective no later than January 1 of the year following the year immediately after the overearning period.

90. ALC and MCI allege that US West, Pacific Bell, Bell Atlantic and Southern New England (SNET) have failed to reduce their 1988 revenue requirements to reflect overearnings in the previous rate of return period. MCI estimates that US West has withheld approximately $37.4 million and SNET, $1.8 million. ALC states that Pacific will owe between $15 and $25 million. ALC Petition at 11-13; MCI Petition at 9-12. US West responds that it has petitioned the Commission to waive or stay its refund requirement, and will take no action while its petition is pending. Pacific replies that it will address or account for all 1985/1986 overearnings prior to implementation of revised rates on January 1, 1988. Bell Atlantic responds that it intends to make direct refunds. SNET in its initial filing states that it is awaiting the outcome of the court's review of the refund rules, and makes no further reply. US West Reply at 13-14; Pacific Reply at 44; Bell Atlantic Reply at App. A, Item 11.

91. This Bureau has already denied the waiver requests of US West and Bell Atlantic.[29] The more recent SNET waiver request has not been granted. Nevertheless, it is within the carriers' discretion to make either direct payments or reductions in access rates. By failing to make reductions in their 1988 rates at this time, some of the carriers may be exercising their choice to make direct payments to customers. Thus, any refund amounts that have not been reflected in reduced 1988 revenue requirements must, under our rules, be refunded directly to customers in accordance with Part 65 procedures. We are accordingly not requiring reductions in the pending rates at this time, but we do require each LEC that has reported refund liabilities that are not reflected in the 1988 access rates either to certify by February 1, 1988, that the refund has been paid to the access customers or to file a midcourse access tariff revision reflecting the refund.

H. *Federal Taxes*

92. Because of numerous significant changes in federal and Commission tax and accounting methodologies that may alter the size and accounting treatment of LEC costs, the differences between this year's access tariffs and those of previous years are substantial. Accounting of taxes and depreciation affects both the carriers' expenses and their rate bases. The Tax Reform Act (TRA)[30] and the Commission's recent notice on amortization of depreciation reserve imbalances[31] both served to shape the carriers' annual access tariff proposals.

1. Increased FIT Expenses

(a) *Petition*

93. MCI charges that, while the majority of LECs show decreases in the federal income tax category (line item 350 of TRP form COS-7), several LECs show dramatic and unexplained increases.[32] MCI states that, in view of the decline in the marginal tax rate from 46 percent to 34 percent, these carriers' anticipated increases are not reasonable. MCI petitions the Commission to order these carriers to explain this phenomenon and, in the absence of justification of these anomalous projections, to order these LECs to decrease their equal access recovery charges to reflect lower taxes.

(b) *Replies*

94. Each of the carriers mentioned by MCI has filed a reply, but not all have responded to this particular argument. Bell Atlantic explains its increase for Delaware's FIT expense as being due to Delaware's extremely low (4 percent) historical rate of return for the equal access element. Bell Atlantic states that Delaware's prospective FIT is calculated on the 12 percent allowable rate of return.[33] BellSouth responds to MCI's allegations by stating generally, without specific references or data, that for the historical period the equal access element earned below the authorized rate of return, thus reducing the taxable income attributable to equal access. Thus the calculation of projected tax expense at the 12 percent allowed rate of return, even with a lower tax rate, results in an increase. US West responds to MCI's assertion by stating that, while the anticipated tax reduction would be expected to yield a reduction of approximately 21 percent,[34] an analysis of Historic to Prospective tax in US West's filing shows a tax reduction in excess of 50 percent.[35] Other than presenting these figures, US West does not answer MCI's allegations of tax increases of up to 350 percent. The two other carriers charged by MCI with having unexplained and unjustified tax increases do not respond on this point.[36]

2. Flow-Back of Excess Deferred Taxes

(a) *Petition*

95. MCI notes that the Tax Reform Act established a new marginal federal income tax rate of 34 percent, down from the previous rate of 46 percent. Because the new rate became effective July 1, 1987, the 1987 marginal rate is effectively 40 percent, and the 1988 rate will be 34 percent. This results in a decrease in the future reductions in deferred income taxes which will occur as assets' service lives end. LECs have been required by the FCC to depreciate assets on a straight-line methodology, while the IRS has allowed them to use accelerated depreciation. The latter method allows for increased depreciation expenses during the early years of an asset's life, and, while the two methods arrive at the same conclusion, they do so at different rates. In the early years of the asset's life, then,

deferred taxes are created to balance the lower actual tax burden in the IRS books with the higher tax burden in the FCC books.

96. MCI states that since the marginal rate has decreased in the midst of this process, the LECs are left with excess deferred taxes that will never be called for in tax burdens. These excesses, MCI asserts, should be flowed back to the customers over the remaining life of the assets that created the deferred taxes. MCI charges that "nearly all LECs" other than Southwestern Bell-Texas (SWBT) have failed to make any arrangement to do so.[37] The vast majority of LECs, MCI alleges, do not propose to return to their customers those excess deferred taxes resulting from the 1986 TRA, and have therefore overstated their interstate revenue requirements.[38] MCI acknowledges its difficulty in supporting this allegation, as most LECs do not document or even mention how they address the problem; but it proposes the use of a test[39] or of an adjustment factor.[40] Several LECs respond to MCI's charge.

(b) *Replies*

97. NYNEX contends that the Internal Revenue Code (IRC) does not allow the LECs to do what MCI suggests. NYNEX Reply at 60. NYNEX argues that if the LECs flowed the excess tax reserve through to their customers, the LECs would not only stand to lose the benefit of accelerated tax depreciation but also would become subject to the recapture of previous tax benefits. This is due to the TRA's requirement that the excess tax reserve be reflected in the computation of cost of service, for ratemaking purposes, using the average rate assumption method, according to NYNEX. *Id.*[41] NYNEX states that it is precluded by IRC Section 46(f) from including the unamortized balance as a reserve and reducing its rate base. NYNEX asserts, referring to Section 168 of the IRC, that if a public utility reduces its excess tax reserve more rapidly than it would do under the average assumption method, it may lose the benefit of the accelerated depreciation for tax purposes, and be subject to the recapture of previous tax benefits.[42] *Id.* at 61. NYNEX concludes that if the LECs were to flow back the excess tax reserve to their customers, or to apply an adjustment factor as MCI suggests, they would not be in compliance with the TRA, and might be subject to a substantially increased tax burden. *Id.*

98. Bell Atlantic admits that it has failed to flow back the excess deferred taxes, and submits exhibits setting forth the modifications necessary to effect this change. Bell Atlantic explains that most of its companies made the correct adjustments to their balance sheet accounts, but failed to reflect the transactions in their FIT adjustments.[43] New Jersey, Bell Atlantic states, correctly reduced Other Deferred Credits in treating the excess deferred tax amount in its Total Company Budget, but then failed to gross up the excess deferred taxes before adding them to the FIT adjustments. Bell Atlantic Reply, App. A, Item 1.

99. BellSouth disputes MCI's statement that the LECs have not flowed through excess deferred tax savings, and have thus overstated their interstate revenue requirements. BellSouth asserts that it has used a method other than the one suggested by MCI (*i. e.*, the treatment of the excess deferred tax savings as amortized investment credit) to flow these funds through. BellSouth Reply at 30-31. BellSouth chooses to gross up the surplus deferred tax amount by the tax rate, and treat this amount as a FIT adjustment, which is reflected in BellSouth's TRP form COS-2. BellSouth notes that this method and the credit method result in the same FIT amounts. *Id.* at 31 and Att. 2.

100. US West disagrees with MCI's proposed test and its underlying thesis that treating the flow-through as an amortization of investment tax credit is the only correct approach.[44] US West states that it does recognize the income adjustment deduction attributable to excess deferred tax in its adjustments to Other FIT. US West states that its TRP shows large increases in income deductions from historic to prospective displays. US West also rejects MCI's proposed rate adjustment factor (RAF) as unsupported. US West states that the RAF fails to consider that the measure of surplus deferred tax can span several federal and accounting tax rate changes, and that MCI has no justification for its assumption of a ten-year average life of plant. US West Reply at 80-81.

101. Ameritech agrees with MCI's assertion that the excess deferred tax should be flowed back to access customers over the remaining life of the assets that created the deferred taxes. Ameritech Reply at 13. Ameritech states that Ohio Bell made this adjustment, but that the other Ameritech companies did not, and that they therefore have overstated FIT expenses.[45] Ameritech states that it will file an erratum to correct this.[46]

102. Pacific Bell states that it is not among the LECs challenged by MCI as having failed to flow through their excess deferred tax savings.[47] Pacific Bell considers its response simply a "reaffirmation" that it is treating these funds properly. Pacific Bell asserts that its filing, at Vol. 2-1, pages BD-H1 *et seq.*, states its method and provides an explanation of the payback of excess deferred taxes as it relates to accelerated tax depreciation. *Id.* at 14-15. Pacific Bell plans to pay back deferred taxes at the same rate that was in effect when they were created, regardless of the current statutory rate. Pacific Bell Reply at 15 (citing its filing at p. BD-H6). Its FIT adjustment, TRP Line 400, reflects the lower taxes resulting from this payback, Pacific Bell argues. Pacific Bell concludes that its approach effects the same result as that taken by Southwestern Bell, which MCI cited with approval. *Id.*

103. SNET takes issue with MCI's charge, noting the SNET has included Excess Deferred Income Taxes as FIT Direct Charges.[48] SNET states that this flows through the Part 69 allocation report to the Account 7200 calculation. SNET concludes that the total FIT adjustments shown at Line 400 on COS-1(P)32 and COS-2(P)32 include FIT Direct Charges. SNET Reply at 23-24.

3. Discussion

(a) *Increased FIT Expenses*

104. We expected that the TRA would have the effects of decreasing the LECs' revenue requirements and of creating an excess in deferred tax reserves. The TRA's principal change was the reduction of the maximum federal income tax rate for corporations from 46 percent to 34 percent, effective July 1, 1987. TRA § 601. While there are some off-setting factors, on balance, the TRA's effect should be to reduce LEC revenue requirements significantly. In addition, due to the tax rate decrease, each LEC's deferred tax reserve,[49] which was accumulated based upon a 46 percent tax rate, is likely to be overstated. The Commission anticipated that this overstatement would total $6.6 billion as of January 1, 1988.[50]

105. Among the factors anticipated as off-setting the tax rate reduction is the fact that accumulated deferred taxes, which are deducted from the value of plant in service, will decrease due to the lower tax rate, so that the rate base will be raised somewhat. Further, the regular investment tax credit for most property placed in service after December 31, 1985 has been repealed, TRA § 211, so LECs' revenue requirements will rise. The modification of the IRC's Accelerated Cost Recovery System (ACRS) method of depreciation[51] and the capitalization of overhead expenses associated with construction[52] are other factors whose effects remain to be seen.

106. While we accept the reasonableness of the argument made here by certain LECs[53] that their equal access earnings have historically been below the authorized rate of return, so that prospective filings calculated at the authorized rate of return may present a greater tax expense even though the tax rate is reduced, this explanation goes only so far. The equal access element constitutes only a part of the rates represented in these filings, and an explanation that a general FIT increase is based on this element is not persuasive. It will not suffice to explain excessive tax increases, such as some of those challenged here by MCI, and we accordingly conclude that we must investigate those rates that are insufficiently supported here.[54]

(b) *Excess Deferred Income Tax*

107. Under Section 203(e) of the TRA, utilities are to pay back excess deferred taxes over the remaining book lives of the assets which created the tax deferral. Section 203(e) is mandatory, not discretionary.[55] Accordingly, those carriers that have proposed an immediate flow-back, and those carriers that have ignored the issue, will be directed to modify their filings in order to reflect the requirements of TRA Section 203(e), paying back excess deferred taxes over the remaining book lives of the underlying assets. Only the filings proposed by carriers proposing a flow-back in accord with and referencing Section 203(e) will be allowed to go into effect without investigation.[56]

I. *Switched Access Rates*

1. CCL - Universal Service Fund

108. AT&T observes (Petition, Appendix D-7) that in calculating the Universal Service Fund component of the Carrier Common Line revenue requirement, NECA used a 12.75 percent rate of return and a tax rate higher than the 34 percent rate effected by the Tax Reform Act of 1986. It calculates that this results in an overstatement of this component of $12.2 million, compared with using the currently allowed 12.0 percent rate of return and a 34 percent tax rate. It requests that NECA be ordered to recalculate and reduce the CCL rate accordingly. NECA replies (NECA Reply at p. 24) that the USF adjustment is in accordance with Section 36.601(b) of the Commission's Rules requiring NECA to calculate the USF adjustment "on the basis of data for a preceding calendar year . . . " NECA states that the changes in the Tax Reform Act and the revised rate of return will be reflected in USF calculations for 1988 reflecting 1987 cost data, to be effective in 1989. It does not dispute AT&T's calculation of the $12.2 million figure.

109. The question presented is thus one of the proper interpretation of Part 36, Subpart F of the Commission's Rules. As NECA states, those rules provide that the USF adjustments are to be computed on the basis of data for a preceding calendar year which is submitted to NECA by June 30th of the following year for inclusion in the annual access filing in October. However, while the Rules state that amounts such as investment in cable and wire facilities, central office equipment, depreciation and noncurrent deferred federal income taxes, and other expenses and investment are to be calculated based on the preceding calendar year, *see, generally*, 47 C.F.R. §36.611, the Rules do not expressly address the allowable rate of return or federal tax rate to be applied. Section 36.621(a)(1) provides that "the study area's authorized interstate rate of return" should be used to calculate the return component but unlike the other Rules in this Part does not specify that the return should be that for the preceding calendar year. Noncurrent deferred federal income taxes are similarly stated to be those for the preceding year, Secion 34.611(a)(7), but the date applicable to the federal tax rate is not specified.

110. In our view, the absence of a statement that the preceding year's rate of return and federal tax rate should be used means that NECA is required to follow the normal approach used to calculate other Common Line pool revenue requirements, *i. e.*, the projected figures for the annual test period. This approach also should produce more reasonable results as applied to these factors, because it avoids overstatements of USF amounts in years when rate of return and tax rates are being reduced as well as understatements in years when a rate of return or a tax rate is increased. NECA's CCL revenue requirement will accordingly be reduced by $12.2 million.

2. NECA Average Schedules

111. On December 14, 1987, this Bureau rejected revisions to the average schedules that NECA proposed to implement on January 1, 1988.[57] NECA's proposed 1988 access charges are based upon the assumption that the rejected average schedule revisions would be effective in 1988. For the month of January 1988, the rejected average schedule revisions would have produced estimated common line settlement increases of $952,210[58] and estimated TS settlement increases of $924,343 per month.[59] However, it is not clear whether or to what extent these amounts represent only the effect of the average schedules or whether these data will be accurate for the calendar year, especially in view of other adjustments to the NECA pools. If these projections do represent a reasonable estimate of the average schedule effects, the CCL revenue requirement is overstated by $11.4 million and the NECA TS revenue requirement by $11.1 million.[60] We have used these amounts for purposes of the calculated adjustments. In its filing to reflect demand response, NECA should provide further information on this issue if it believes this estimate to be inaccurate.

J. *Special Access*

1. Introduction

112. Many of the LECs are proposing significant increases in their recurring rates for voice grade and other special access services.[61] In addition, a number of the LECs have also proposed significant increases in nonrecurring charges (NRCs) for special access services. West-

ern Union states that the proposed special access rates would increase its total special access costs by 10.5 percent over current levels -- an increase it characterizes as extraordinary given the virtual absence of inflation in the economy and the lower federal income tax rates that will apply to the LECs in 1988 as a result of the Tax Reform Act of 1986.[62] AT&T estimates that the proposed increases for special access voice grade service would increase its special access costs by $123 million for the test year and an additional $2.9 million for DDS access. AT&T Petition at 22. MCI states that the theme of this year's special access filings is one of overbudgeting, overallocation, violation of Commission Rules and underforecasting of demand. It argues that many of the proposed special access rates are unlawful and should not become effective on January 1, 1988. MCI Petition at 2-3.

113. The petitioners suggest a number of causes underlying the proposed increases in many special access rates. They state that changes in the Commission's accounting, separations and cost allocation rules have resulted in very large shifts of costs associated with General Support Facilities (GSF), Central Office Equipment (COE) and Cable and Wire Facilities (CWF) to the special access category. The petitioners argue that the carriers have provided insufficient supporting information to permit validation of their assignment of Category 4 COE and CWF to special access. We note that the shifting of costs in these categories to special access will have a major impact on proposed rate levels since CWF and COE together account for more than 70 percent of the total plant-in-service allocated to special access for the Tier 1 companies in the 1988 annual access tariff filings.[63] Westèrn Union states that the LECs have failed to provide sufficient data to enable interested parties to test the accuracy of their overall assignments of these costs to special access and that this requires further investigation.

114. Secondly, the LECs have forecast substantial declines in the demand for voice grade service. Petitioners allege that these demand projections are inadequately explained and inconsistent with past experience and economic conditions. Moreover, petitioners assert that many carriers appear to have used historical cost allocation factors in developing their revenue requirements without adjusting the factors to reflect their changing demand forecasts for the 1988 test year. Thus, it is alleged, most LECs project declining revenues, but have not adjusted their costs to match the decline in demand resulting in higher proposed rates. Western Union, Ad Hoc and MCI also assert that most of the LECs have used the wrong allocator for distributing interstate circuit equipment costs to the various access elements, causing an overallocation of these costs to special access. [64] They make a similar argument that the LECs have overallocated IOT investment to special access and have failed to apply miscellaneous revenues to the special access category. The petitioners also object to the LECs' continued strategic pricing of High Capacity Service (HiCap) and Digital Data Service (DDS) arguing that the Commission has never endorsed strategic pricing of special access services and that the proposed rates deviate too substantially from cost-based rates to be reasonable.

115. A few petitioners emphasize that the Commission should review the proposed special access rates with extra care in light of the fact that the LECs could take advantage of the confusion occasioned by the rule changes to propose unreasonable rates. For example, ARINC states that the LECs have a particular incentive to raise their 1988 access rates in anticipation of the adoption of proposals to streamline the regulatory mechanisms applied to regulated carriers. These include the elimination of rate of return regulation for dominant carriers and adoption of a price cap approach,[65] the use of Basic Service Elements in *Computer III* and the development of "Gateway" information services. ARINC Petition at 6-7; Television Service Users' Comments at 3.

116. After consideration of the tariff filings, petitions and all responsive pleadings, we conclude that the LECs (with regard to their proposed special access tariff revisions) have not adequately demonstrated their compliance with the Commission's rules in this annual access tariff filing. Accordingly, we have decided to suspend for two months all special access rate increases proposed by the Bell Operating Companies except for Southwestern Bell, Pacific Bell and BellSouth. We also suspend for two months the special access rate increases proposed by the GTE Telephone Companies, Cincinnati Bell and Southern New England Telephone Company. Finally, we are instituting an investigation of certain other special access rate development issues.[66]

2. Summary of Pleadings

(a) ***Demand Forecasts***

117. Most of the LECs are forecasting significant declines in demand for voice grade, metallic, telegraph, and program audio services. A number of petitioners criticize the demand forecasts as inconsistent with historical demand results and inadequately explained. For example, AT&T criticizes Bell Atlantic's forecast of a 20 percent decline in voice grade circuits because historical demand decreased by only 1.4 percent. For New Jersey, AT&T observes that Bell Atlantic is projecting a decrease of circuit demand of 26 percent for voice grade service, 36 percent for DDS and 22 percent for HiCap despite the fact that for the historical period, circuit demand for these services increased by 3.4 percent, 20.4 percent and 213.8 percent, respectively. AT&T Petition at 24. Similarly, NYNEX projects a 4.53 percent decline in voice grade demand following an 8 percent increase for the historical period.

118. AT&T also argues that these and other LEC demand forecasts are out of line with projected economic growth. For example, NYNEX projects a decrease of 20.68 percent in voice grade channel termination demand in New Hampshire (a decrease greater than the average decline in demand for all the BOCs --15.83 percent) while per capita income in New Hampshire is forecast to increase by 2.26 percent -- nearly double the national average. *Id.* at 29. AT&T states that the tariff support gives no explanation for this anomaly and observes that a number of the BOCs guilty of similar anomalous forecasts have very poor demand forecasting records. API argues that the rate increases proposed for voice grade service are largely the result of the LECs' unprecedented forecasts of decreased demand. It argues that the Commission should reject the LECs' conclusionary rationales in support of their forecasts. API Petition at 10. Finally, API states that the Commission's rules require the LECs to provide sufficiently detailed tariff support information to explain and justify their proposed rate revisions. API says the LECs have not done so.

119. In response, most of the LECs forecasting declines in demand for voice grade service argue that this change simply reflects the fact that consumers are moving away from the older, analog voice grade technology to digital high capacity services. For example, NYNEX says that many LECs are seeing a shift of special access demand from voice grade to HiCap service and that measured by capacity, special access service is growing. NYNEX Reply at 31-35, 80-83. Similarly, BellSouth says that AT&T's comparison of special access demand trends with historical and economic growth patterns is flawed because AT&T did not include all forms of special access in its comparison. BellSouth states that when demand for HiCap services is added to projected voice grade demand for the BellSouth region, the growth trend reflects and generally exceeds historical and economic growth patterns. BellSouth Reply at 42-43. BellSouth also states that any meaningful comparison of projected demand with historical patterns must include an adjustment of out-of-trend bypass. *Id.* Bell Atlantic states that the petitioners' criticism that its forecast reduction in voice grade demand is not offset by the forecast increase in DS-1 HiCap service is inaccurate. It says the decline in voice grade demand is more than offset by increasing demand for DS-3 service. Bell Atlantic Reply at 9-10. Similarly, Southwestern Bell states that the decline in voice grade demand forecast for Texas is also due to migration to DS3 services. It observes that migration to DS3 is occurring not only from voice grade service but also from regular High Capacity (DS1) facilities. Southwestern Bell Reply at 40-41.[67]

(b) *Demand and Cost Relationships*

120. The petitioners state that most of the LECs that have forecasted significant declines in demand for voice grade and other non-high capacity services are also projecting large increases in costs assigned to these services. The petitioners observe that as a general principle reductions in the demand for an access service should be accompanied by reduced costs and a lower revenue requirement. The petitioners argue that most of the LECs failed to adjust their separations allocation factors and cost assignment procedures to reflect the changes in plant facilities that would result from the projected demand mix. In other words, these LECs have failed to adjust their historical separations factors to account for the substantial projected demand changes. Western Union and other petitioners argue that these historical allocators cannot produce appropriate allocations of the primary investments between operations and services.

121. Specifically, Western Union asserts that all of the BOCs except Southwestern Bell, BellSouth[68] and Pacific Bell have failed to adjust historical separations ratios to reflect the large projected declines in forecast voice grade circuits.[69] It calculates that Bell Atlantic's failure to adjust its CWF cost allocations to account for demand changes caused an overallocation to special access of $42.2 million. Similarly, it calculates Ameritech's failure to adjust historical separations relationships in light of prospective demand in Illinois has resulted in an apparent overstatement of its revenue requirement of about 3 percent. A number of other petitioners also attack the failure of the LECs to adjust historical cost allocators to reflect the substantial changes in demand forecast for the 1988 test year and conclude that this has resulted in a significant overstatement of special access revenue requirement and rates in many cases.

122. Ameritech disagrees with Western Union's contention that historical separation factors are not appropriate allocators for CWF and that failure to reflect forecasted demand reductions in separations factors overstates investment. It states that Western Union's demand-cost analysis is overly simplistic and conflicts with generally recognized separations principles. Ameritech Reply at 17. Adjusting historical loops for prospective influences is not a simple matter of reflecting a decline in the loop count, with a corresponding reduction in investment, Ameritech states. Rather, the effect of the entire process, including proper consideration of cost and jurisdictional aspects, must be considered in calculating separation factors. Ameritech concludes that adjusting historical loops for prospective changes in demand would likely increase, rather than decrease, investment assigned to the special access category because the forecast voice grade demand reductions are primarily the result of migration to HiCap service and high capacity costs per loop are higher than voice grade costs per loop. Therefore, according to Ameritech, adjustment of the historical loops would increase the proportion of high capacity loops in the demand quantities and thereby put upward pressure on special access investment and costs. *Id.* at 18. NYNEX states that because the separations process assigns as much cost for voice grade service as for equivalent demand carried on HiCap multiplexed service, the observed shift in demand produced almost no change in the special access revenue requirement resulting in upward pressure on rates as billable demand decreases. NYNEX Reply at 81-82.

(c) *Cable and Wire Facilities Separations*

123. Many of the petitioners also contend that the LECs have overstated special access revenue requirements because the LECs did not apply the correct separations factors to derive interstate investment and expense that is reflected in the special access revenue requirement. Petitioners are particularly critical of the procedures many LECs used to apportion investment in Cable and Wire Facilities (CWF). Petitioners note that a correct apportionment of CWF is particularly important because many other separations and access allocations are based in whole or in part upon relative CWF investment.

124. Western Union also argues that the LECs have failed to provide sufficient information to prove that their cost assignments are reasonable and that they have overassigned both CWF and COE investment to special access. Western Union states that in the aggregate for all of the Bell Operating Companies, special access is assigned 58 percent of the Cat. 2 CWF (wideband and exchange trunk) investment assigned to the interstate jurisdiction. It contends that this is difficult to accept given that special access receives assignments of about 10 percent of exchange line CWF and COE and about 30 percent of interexchange CWF and COE. Western Union Petition at 23. It argues that even though CWF and COE assignments are the primary determinants of special access rates, the LECs in most cases have failed to provide sufficient information to permit validation of these assignments and, therefore, rejection or suspension and investigation of the proposed rate increases is warranted.

125. Bell Atlantic claims that the charges that the LECs have inadequately justified their allocations of CWF investment to special access merely reflect the fact that the

rules changes have simplified and reduced the amount of cost support needed. Bell Atlantic Reply at App. A, Item 16.

(d) *Circuit Equipment Separations*

126. Petitioners also contend that errors in the application of Part 36 separations rules relating to circuit equipment have resulted in a substantial inflation of the special access revenue requirement. The petitioners focus particularly upon the apportionment of the LECs' interexchange circuit equipment (COE Category 4.23) that is to be apportioned pursuant to Section 36.126(e)(3) of the Commission's Rules. 47 C.F.R. § 36.126(e)(3).

127. Western Union contends that the LECs have failed to provide sufficient information about COE Cat. 4.23 apportionments. It also contends that the apportionments are inconsistent with special access demand projections and alleges that Bell Atlantic has overallocated $5 million in COE Cat. 4.23 equipment to special access.

128. AT&T also argues that the tariff filings raise substantial questions as to whether the LECs have correctly complied with the Part 36 separations procedures relating to Category 4.23 COE.[70] According to AT&T, the LECs have failed to provide sufficient information in the tariff filings to determine whether their apportionments of Category 4.23 COE are correct. Moreover, AT&T asserts, some of the filings raise questions as to whether the carriers were able to modify their accounting systems to implement Part 36 in time for their filings.[71] AT&T concludes that without additional termination count and conversation minute data underlying the LECs' Category 4.23 COE assignments, it is not possible to determine whether any LEC's assignment of this COE is correct, either between the state and interstate jurisdictions or between the interstate switched and special access categories. AT&T asks us to direct the LECs to provide the termination counts and conversation minutes that the LECs used to apportion Category 4.23 COE investment.

129. Similarly, Ad Hoc argues that the LECs have provided insufficient data to evaluate their separations procedures. Ad Hoc asserts that it is impossible to determine whether the "fully equivalent interexchange telephone terminations," the allocator of Category 4.23, have been properly counted or whether the revised separations assignments are distributed among the Part 69 categories in accord with the rules. Ad Hoc Petition at 30. Ad Hoc notes that most of the LECs continue to refer to two special studies which have been cited in previous access tariff submissions for the allocation of interexchange transmission investments and Category 3 interexchange CWF.[72] Ad Hoc states that the LECs have not provided these studies and it is thus not clear whether these are the identical studies previously relied upon by the LECs or if the studies have been prepared using the revised separations procedures. Ad Hoc states further that at least one carrier, New York Telephone (NYT), has developed inaccurate termination counts based upon a misinterpretation of the Commission's separations procedures. According to Ad Hoc, NYT has asserted that the termination count should only include "those terminations that physically require separate equipment to complete the circuit." NYT argues that circuits that terminate in digital switching equipment should be excluded from the message portion because these terminations do not require additional equipment. Ad Hoc counters that Part 36, like Part 67, requires that circuit equipment must first be segregated between basic equipment utilized to provide all telephone grade circuits and specialized forms of circuit equipment utilized by private lines. *Id.* at 30-32. Ad Hoc argues that digital and analog transmission facilities are utilized in common to a large extent by switched and special access services, and that the failure to separate circuit equipment costs between the basic, common cost elements and specialized functions assigns excessive costs to special access via the residual process. *Id.* at 32.

130. In addition, Ad Hoc contends, NYT and the other carriers that refer to Special Study Nos. 62 and 77 should be required to demonstrate how the assignments of COE transmission, Category 4.23, and interexchange CWF, Category 3, were applied between switched and special access. Finally, Ad Hoc contends that the use of the two special studies leaves open to question whether a complete cost allocation has been made to message and private line services. *Id.* at 33-34.

131. Ameritech asserts that, contrary to the speculation of AT&T and other parties, Ameritech correctly allocated interexchange circuit equipment to the interstate jurisdiction. Ameritech states that, to the extent Category 4.23 investment could be directly assigned, it was. Ameritech states that remaining costs were allocated according to the specified use factors. Ameritech Reply at 21-22. Bell Atlantic argues that Ad Hoc misunderstands the use of the special studies. Bell Atlantic Reply at Appendix A, Item 10. NYNEX states that AT&T provides no support for its claim that Category 4.23 COE has not been apportioned correctly. NYNEX assures us that the data provided in its filing reflect the best current information. NYNEX Reply at 65. Pacific responds to AT&T's criticism by stating that the interstate allocation factor used for costs related to message circuits was based on an analysis of conversation minutes as required by Section 36.126(e) of the Rules, 47 C.F.R. § 36.126(e). Pacific states further that circuit terminations were counted as described in its workpapers and represent Pacific's best estimate of the results using available data. Pacific also says that private line terminations were adjusted to reflect the decrease in projected demand. Pacific contends that its earlier statement that estimates would continue to be examined demonstrates a reasonable and prudent recognition that Pacific is using new allocation data. Pacific Reply at 22-23. US West states simply that it has complied with the rules with respect to interstate circuit equipment. US West Reply at 61-62.

(e) *Part 69 Allocation of Cat. 4.23 COE*

132. Section 69.306(e) of the Commission's Rules provides that Central Office Equipment (COE) Category 4 (circuit equipment) shall be apportioned among the interexchange category and various access elements in the same proportions as the "associated" cable and wire facilities. Western Union, MCI and Ad Hoc allege that several BOCs have allocated Category 4 COE on the basis of circuit terminations instead. Western Union Petition at 50-58; MCI Petition at 22-23; Ad Hoc Petition at 29-34. While circuit terminations are the proper allocator under Part 36, Western Union states that their use under Part 69 is "wholly unauthorized." The petitioners further argue that this incorrect procedure substantially inflates the revenue requirement for special access.

133. The carriers acknowledge that the LECs have not used the CWF proportions to allocate their Category 4 COE to Part 69 rate categories. The carriers appear to have assigned directly the costs resulting from Part 36

procedures to Part 69 categories. The carriers generally defend their own method by insisting that their method produces results that are more in keeping with the theory of direct assignment. Alternatively, they argue that the Part 69 rules are unclear, and that their method is allowable under Section 69.306(e).

134. Bell Atlantic states, for example, that the petitioners are mistaken in their assertion that the Commission's revised Part 69 Rules continue to apportion the interstate allocation of Category 4.23 investment between the private line and message categories based on the Part 67 allocator (circuit miles) and not the Part 36 allocator (circuit terminations). Bell Atlantic Reply at App. A, Item 7. Bell Atlantic states that Section 69.306(e) of the Rules, which specifies the allocation of Cat. 4 COE, does not establish a specific allocation methodology, but rather requires that Category 4 costs be apportioned among the Part 69 categories in the same proportions as the associated Cable and Wire Facilities. Bell Atlantic states that it apportioned Cat. 4.23 (and all other circuit equipment costs) among the Part 69 categories in strict compliance with Section 69.306(e). *Id.*

(f) *Discussion*

135. The petitioners have raised a number of questions relating to the development of the LECs' revenue requirements for special access, including their compliance with the accounting, separations and access charge rules changes that are being implemented for the first time through these tariffs. Further investigation is required to determine whether any of the LEC demand projections are reasonable. We also conclude that the petitioners have demonstrated that there may be serious inconsistencies between the separation factors used by most of the LECs in this filing and the demand quantities forecast for the test year for special access. The petitioners have presented numerous instances in which the LECs' allocations of the primary special access cost categories, Cable and Wire Facilities and Central Office Equipment, may have been misallocated or at least present anomalous results in comparison with appropriate demand quantities. In other words, we are not convinced that the LECs have properly taken their forecast demand into account in developing their cost allocation factors in this filing and that their failure to do so has produced interstate cost allocations to the special access category which are unsupported and flawed and which may overstate the special access revenue requirement and ultimately most proposed rates for special access services.

136. Any misallocation of CWF and COE investment not only directly produces significant revenue requirement distortions, but also produces indirect distortions because many plant and expense overheads are themselves allocated on the basis of CWF and/or the COE allocation in both the Part 36 separations rules and the Part 69 access allocation rules. Therefore, distortions in the basic allocations could create even larger distortions in the overall special access revenue requirement. For all of these reasons, therefore, we conclude that investigation of the special access rate increases is warranted. Although the demand question alone would not warrant suspension, the cost-demand discrepancies do warrant suspension. Therefore, we suspend for two months the proposed special access rate increases proposed by each of the Bell Operating Companies, except for the rate increases proposed by Southwestern Bell, Pacific Bell and BellSouth.[73] We also suspend for two months the proposed special access rate increases proposed by the GTE Telephone Companies, Cincinnati Bell and Southern New England Telephone Company because it appears that these companies also failed to adjust their cost allocation factors to account for forecast demand for the test year. We will establish an expedited pleading cycle for investigation of the cost-demand discrepancies and a separate pleading cycle for the other special access issues that we will investigate.

137. The problems discussed above may require major revisions of the proposed rates for special access services. Accordingly, it is not necessary at this time to discuss and resolve every individual challenge to a particular cost allocation or proposed rate made by the petitioners in this proceeding. We anticipate that our investigation will require the LECs to provide additional data in support of their rates which may satisfy some of the concerns expressed by the petitioners. In any case, the investigation of these primary ratemaking deficiencies will enable us to better determine whether there are additional significant problems and, if so, to identify appropriate actions.

138. Although the record to date indicates that most LECs have probably made significant errors in computing special access demand and revenue requirements, we have concluded that the petitioners' interpretation of Section 69.306(e) is erroneous. The use of the term "associated" which is not used in most other Part 69 provisions, implies that interstate circuit equipment is to be directly assigned when it is possible to do so. We note that the original access apportionment rule for Circuit Equipment (former subsection § 69.306(i)) said: "COE 8 shall be apportioned in the same proportions as the associated OSP except as provided in paragraph (a) of this Section." The text of the accompanying *Third Report and Order* said: "The circuit equipment that is included in the COE 8 category will be assigned and allocated in the same manner as the associated OSP."[74] The term "assigned" is used in that Order to describe a direct assignment and the term "allocated" is used in that Order to describe an apportionment between or among elements or categories based upon a usage or other factor. Thus, the original rule contemplated that circuit equipment associated with particular lines would be directly assigned. There is no reason to believe the revised rule was intended to achieve a different result. Therefore, this interpretation question is not being designated for investigation.

3. Strategic Pricing

139. The LECs have again proposed rates for their special access DDS and HiCap service at levels designed not only to reflect relative costs, but also to reflect certain marketing or strategic considerations. The LECs readily admit to strategic pricing of HiCap and DDS, and defend their pricing decisions as essential in the current access marketplace. As in the past, they contend that strategic pricing of these services is necessary to prevent inter- and intracategory bypass, to enhance economic efficiency and to establish economically rational "breakpoints" between voice grade and HiCap services. Most of the LECs emphasize, however, that their primary reasons for strategic pricing of these services is to respond to competitive alternatives from non-telephone company transmission providers and to manage customer migration from voice grade to high capacity facilities in order to prevent stranded investment, promote efficient utilization of plant and avoid excessive rate churn.

140. The petitioners oppose strategic pricing of special access services on both legal and policy grounds. They state that Section 201 of the Communications Act requires that all rates be just and reasonable and that each carrier is obligated to assure that its rates for individual services are not outside the zone of reasonableness, *i. e.*, that the authorized rate of return applies to each special access service and not just the special access category as a whole. They assert that the Commission has not approved strategically set rates or endorsed strategic pricing of special access services and will investigate the acceptability of strategic pricing in *Docket 85-166*.[75] A number of the petitioners argue that special access rates should be based solely on costs, while others argue that the LECs have failed to demonstrate that their proposed strategically-set DDS and HiCap rates fall within the zone of ratemaking flexibility established by this Bureau in the annual 1987 access tariff proceeding. Ad Hoc argues that even though this Bureau did not require the LECs to provide special access cost support data disaggregated to the rate element level in the annual 1988 access filing -- which would have allowed comparison of subelement rates of return -- the LECs are still obligated to provide sufficient tariff support materials to meet their burden of explaining and justifying their proposed rates. Ad Hoc Supplemental Petition at 25.

141. We will allow proposed strategic rates which are lower than those currently in effect to become effective as scheduled, subject to the outcome of our ongoing investigation of strategic pricing in CC Docket No. 85-166. Of course, we are suspending all proposed Tier 1 special access rate increases except for Southwestern Bell, Pacific Bell and BellSouth in order to investigate the cost and demand issues discussed above.

4. Non-Recurring Charges

142. Ad Hoc alleges that both Bell Atlantic and Pacific Bell have used outdated studies to support their proposed increased non-recurring charges (NRCs). Ad Hoc Petition at 45-46. Ad Hoc states that Pacific Bell admits that its 1985 cost study may not reflect current costs, but rather than update it, Pacific Bell assumes that its installation costs are higher today and therefore the charges based on the 1985 data are not excessive.[76] Bell Atlantic is using a 1986 study and increasing its costs by 5.5 percent to reflect average increases in labor costs. Ad Hoc says this approach ignores whether work activities and work units have changed as well as any productivity improvements that may have occurred since the time estimates were developed. The petitioner concludes that neither LEC has provided data supporting the current estimates of time and labor required to complete non-recurring tasks required by Section 61.38 of the Commission's Rules. Mid-Atlantic also would suspend and investigate Bell Atlantic's proposed NRCs, arguing that the increases are not justified by either costs nor public policy considerations.[77] Mid Atlantic Petition at 12. API suggests that investigation of Bell Atlantic's and New England Telephone's proposed NRCs is warranted because their proposed increases are more severe than some other LECs. API Petition at 20.

143. In its reply, Bell Atlantic states that NRC work activities and average work times do not change substantially over relatively short time periods; therefore, use of the 1985-1986 study is entirely reasonable. Bell Atlantic Reply at App. A, Item 32, p.2. It observes that its current special access NRCs are only 25 percent of 1986 total costs while the proposed rates are projected to be 86 percent of 1986 costs. In addition, Bell Atlantic filed a proposed rate reduction of almost 11 percent to its proposed special access NRCs. Pacific Bell states that its proposed increased NRCs would recover 35 percent of the total non-recurring costs shown in the 1985 study and therefore a new cost study would be unlikely to show that the proposed rates are unreasonable.[78]

144. In a recent Order, the Commission found that the "time and motion" studies typically used by the LECs to develop and support their NRCs were an adequate costing approach for developing these charges so long as the studies are accurate and were performed in the manner represented.[79] The petitioners here question whether Bell Atlantic and Pacific Bell's respective studies are sufficiently current to accurately reflect their non-recurring costs. In the case of Bell Atlantic, this may be a moot issue since we are suspending its proposed special access rate increases. We conclude, however, that Bell Atlantic's adjustments to its existing non-recurring cost study do not appear to be unreasonable. As to Pacific Bell, the record developed here also indicates that its proposed NRCs are below cost and are not unreasonable. Accordingly, suspension and investigation are not warranted.

5. Television Users

145. The Television Service User Parties (TV Parties) assert that the proposed television service rate levels of Ameritech and BellSouth are unreasonable and should be suspended because these carriers have failed to base their rates on television service-specific costs. In particular, the TV Parties object to the proposed 33 percent rate increase for Illinois. Comments of the TV Parties at 4-7. They also argue that both Ameritech and BellSouth apply cost allocation factors as if the television service shared multi-service facilities with other services -- which it does not -- thereby inflating the claimed costs of providing this service. The TV Parties maintain that because essentially all costs properly allocable to the television service can be identified on a direct assignment basis, the LECs should treat the television service separately from other services in applying cost allocation factors. Finally, the TV Parties ask that we investigate Pacific Bell's television rates -- even though it proposes a significant rate reduction for full-time service -- because it "appears" to include excessive investment in its rate base which may no longer be used or useful. Comments of the TV Parties at 15.

146. We are already suspending Ameritech's proposed rate increases and we will consider the reasonableness of its proposed rate increase for television service in Illinois in our investigation. We find, however, that the television service rate revisions proposed by BellSouth and Pacific Bell do not require suspension or investigation at this time.

K. *Carrier Common Line Demand*

1. Introduction

147. There is a substantial difference of opinion among the parties regarding the correct forecast of baseline[80] carrier common line (CCL) minutes of use (MOU) for the 1988 test year (calendar year 1988). The forecast of 1988 CCL MOU made by the National Exchange Carrier Association (NECA) is 222,971 million MOU, which reflects a growth rate of 8.0 percent over the past year cost of

service period (PYCOS), as displayed in NECA's October 2, 1987 cost support.[81] NECA's estimate can be disaggregated as follows:[82]

NECA's Forecast of 1988 CCL MOU (millions)

	Terminating	Originating	Total
Premium	120,993 (54.26%)	94,396 (42.34%)	215,389
Non-premium	5,397 (2.42%)	2,185 (0.98%)	7,582
Total	126,390	96,581	222,971
Chargeable	123,421	95,380	-------

148. NECA explains that, as in past annual filings, it has developed a baseline forecast of 1988 CCL MOU by aggregating the larger exchange carriers' forecasts of baseline demand and including a forecast, which it has developed itself, for the remaining smaller exchange carriers. Further, NECA states that it has consistently maintained that the large exchange carriers have the experience and expertise to develop forecasts that reflect economic and market conditions specific to their study areas.[83]

149. AT&T, however, contests NECA's forecast. AT&T presents number of analyses which, it asserts, demonstrate that NECA's demand forecast is unreasonably understated. In particular, AT&T has developed a sophisticated econometric model, named the Revised Model, which projects CCL MOU in 1988 to be 236,657 million MOU,[84] 13,686 million MOU more than NECA's forecast. The Revised Model's forecast reflects an annual growth rate of 12.4 percent over NECA's October 2, 1987 view of the PYCOS period. In addition, AT&T projects that new services introduced by the interexchange carriers (ICs) in 1986 will add 2,651 million MOU, which are not captured by the Revised Model, to the 1988 forecast, thus increasing the forecast to 239,308 million MOU.[85] Except for the effect of these new IC services, AT&T accepts NECA's percentage disaggregation of the CCL forecast into originating, terminating, premium and non-premium categories, as displayed below:[86]

AT&T Revised Model's Forecast of 1988 CCL MOU (millions)

	Terminating	Originating	Total
Premium	128,419 (54.26%)	100,190 (42.34%)	228,609
Non-premium	5,728 (2.42%)	2,320 (0.98%)	8,048
Total	134,147	102,510	236,657
Chargeable	130,997	101,234	-------

All of AT&T's other analyses, none of which is as sophisticated as its Revised Model, yield higher forecasts. Thus, AT&T implies, the Revised Model's forecast is both the most sophisticated and the most conservative (*i. e*, yields the lowest forecast) of its analyses.

150. We have carefully examined the analyses presented by the parties in the October 2, 1987 cost support and the replies and rebuttals. We have also conducted econometric analyses of our own. As we explain in more detail below, as a result of our review we are convinced that NECA's forecast of 1988 CCL demand is unreasonably low. Also, as a result of our review, we are convinced that AT&T's Revised Model, as presented in its rebuttal, is the best available model for estimating 1988 aggregate CCL demand. We observe that the forecast which results from the Revised Model is the most conservative of AT&T's models and also among the lowest of all models that were given serious consideration as part of our review. We do not believe, however, that AT&T's addition of MOU attributable to new IC services is appropriate.

151. Although we believe that AT&T's Revised Model yields the most reasonable forecast of 1988 CCL MOU when compared to alternative analyses, it may be possible to improve the model. The model is a new one and has not been subject to the test of time. Furthermore, even if the specifications of the model are perfectly correct, the model's mean forecast is only the most likely of a set of more or less probable forecasts. Since we wish to avoid adopting a forecast that is too high, as an added precaution we will adopt the lower bound of the model's confidence interval[87] as an acceptable forecast of 1988 CCL demand. The lower bound of the revised model is 233,798 million MOU.

152. NECA has notified us that its proposed originating/terminating MOU ratio (O/T split) is incorrect and must be adjusted to account for the change in treatment of ReadyLine charging.[88] As discussed below, we accept NECA's estimate that 2,123 million ReadyLine MOU should be converted from forecast premium terminating MOU to forecast premium originating MOU. An acceptable forecast of 1988 CCL MOU is derived by adjusting the lower bound of the Revised Model's forecast for the changed treatment of ReadyLine. The following chart summarizes this estimate:

Acceptable Forecast of 1988 CCL MOU (millions)[89]

	Terminating	Originating	Total
Premium	124,745 (53.36%)	101,103 (43.24%)	225,848
Non-premium	5,659 (2.42%)	2,291 (0.98%)	7,950
Total	130,404	103,394	233,798
Chargeable	127,292	102,134	-------

2. Petitions

153. Although other petitioners commented on the reasonableness of NECA's CCL forecast, only AT&T presents alternative forecasts. In fact, the bulk of AT&T's petition is devoted to demand analysis and development of alternative forecasts. AT&T presents four analyses of CCL demand:[90] (1) Analysis of Historical Growth; (2) Analysis of Feasible Demand Elasticities; (3) Revised Model; and (4) Supplementary Supporting Analyses.

(a) *Analysis of Historical Growth*

154. AT&T states that NECA's projected annual growth rate for 1988 demand relative to PYCOS demand is only 8 percent and is significantly below the historical growth rate of 12 percent. AT&T claims that recent data, which show that growth in demand during recent months is even higher than 12 percent, demonstrate that NECA's forecast growth rate is unreasonably low. AT&T concludes that 1988 projections for changes in price,and economic and demographic factors, appear consistent with prior historical periods, and thus, changes in these factors do not justify significant decreases in the demand growth rate from historical levels.[91]

(b) *Analysis of Feasible Demand Elasticities*

155. AT&T constructs three scenarios of 1988 CCL MOU using a low, mid-range and high price elasticity together with a fixed population elasticity and an income elasticity that is derived from application of the price and population elasticities to historical demand data.[92] The "low" scenario yields a forecast of 241,000 million MOU (13.7 percent annual growth); the "mid-range" scenario yields a forecast of 250,000 million MOU (16.5 percent annual growth); and the "high" scenario yields a forecast of 255,000 million MOU (18.1 percent annual growth).

(c) *Revised Model*

156. AT&T characterizes the Revised Model as a revision of the econometric model that the Commission used to forecast demand in the 1987 annual access tariff proceeding.[93] The Revised Model is thoroughly documented in AT&T's petition;[94] the following is a brief sketch of the model. The Revised Model consists of a series of sophisticated econometric equations which employ pooled cross-sectional techniques and which project total 1988 CCL MOU by state for the Tier 1 companies. For the dependent variable (the variable to be explained), the model utilizes historical monthly time series CCL MOU data supplied on a company study area (*i. e.*, state) level by the Tier 1 exchange carriers in their 1988 Tariff Review Plans (TRP). The duration of the time series MOU data is from July 1984 through June 1987. The independent (explanatory) variables consist of a price series derived from a weighted average of prices of interstate services offered by AT&T and other interstate carriers; a per capita real disposable income series provided on a state level by Data Resources, Inc. (DRI), a vendor of economic data; a Consumer Price Index (CPI) series provided on a state level by DRI; and a population series provided on a state level by the same company. Forecasts of 1988 income, population, and CPI on a state level are also provided by DRI. The version of the Revised Model in AT&T's petition forecasts 238,701 million CCL MOU for the exchange carrier industry as a whole. AT&T states that CCL MOU from new IC services introduced in 1986 are not adequately embedded in the data series and so are not captured by the model. Hence, AT&T adds 2,651 million CCL MOU due to new interexchange services to the model's forecast. Thus, AT&T derives a forecast of 1988 CCL MOU equal to 241,352 million MOU.[95]

(d) *Supplemental Supporting Analyses*

157. AT&T presents additional econometric analyses, including a national (aggregated) version of the Revised Model; an updated version of the model that this Bureau adopted in the *December 24, 1986 Order* ; and various adjusted trend models. The CCL MOU that is projected by these models ranges from 241,900 million MOU to 256,100 million MOU.[96] AT&T's updated version of the *December 24, 1986 Order* model yields a forecast of 246,000 million MOU (a forecast of 15.3 percent annual growth).[97]

(e) *1987 Forecasting Report Card*

158. In addition to developing various forecasts of 1988 CCL MOU, AT&T also presents a "report card" which evaluates the accuracy of the forecasts of 1987 CCL MOU that were made by NECA and AT&T, respectively, during the 1987 annual access tariff proceeding. Using an estimate of 1987 CCL MOU of 214,210 million, AT&T calculates that NECA's forecast will understate 1987 CCL MOU by 12,621 million MOU and that AT&T's forecast will overstate 1987 CCL MOU by only 3,074 million MOU.[98] Thus, AT&T implies, NECA's forecast was grossly inaccurate and AT&T's forecast was very accurate. AT&T states that since the majority of exchange carriers use the same forecasting methods in their current filings as they used in their October 3, 1986 filings, the accuracy of the exchange carriers' forecasts for 1987 should be a factor in determining the accuracy of NECA's CCL MOU forecast for 1988, which is based on an aggregation of exchange carriers' forecasts.

3. Replies

159. NECA and many of the exchange carriers challenge the validity and accuracy of each of the four types of AT&T's demand. Among the exchange carriers, Ameritech and NYNEX provide the most in-depth criticism.

(a) *Analysis of Historical Growth*

160. NECA and Ameritech defend the reasonableness of NECA's forecast of 1988 CCL MOU by comparing it with historical data from prior periods.[99] NECA claims that its forecast growth rate is consistent with past growth rates. First, NECA argues that its forecast annual growth rate of 8 percent is nearly identical to the annual growth rate of 8.3 percent from the July 1984 - June 1985 period through the July 1985 - June 1986 period. NECA argues that such a comparison is appropriate because both growth rates are derived from periods of comparable AT&T price reductions. Further, NECA argues that the price reduction affecting 1988 will be far less than the average price reduction that has occurred since the inception of access charges. In fact, NECA argues, the only price change that will impact 1988 is AT&T's rate reduction of June 1987, which was less than 4 percent. Finally, NECA argues that AT&T has exaggerated recent growth rates by choosing unrepresentative periods for its calculations.

161. Ameritech also argues that an adjusted trend analysis demonstrates that NECA's forecast growth rate is reasonable. By comparing price and income forecasts to averages for the historical period, Ameritech calculates that the forecast growth rate should be only 8.4 percent, about 3 percent less than AT&T's estimate of the growth rate since the inception of access charges.[100]

(b) *Analysis of Feasible Demand Elasticities*

162. NECA, Ameritech and NYNEX criticize AT&T's analysis of feasible demand elasticities. Each company asserts that AT&T has used a badly flawed price series in its computations. NECA and Ameritech refashion AT&T's analysis by revising the price series and incorporating other revisions. NECA develops new calculations for AT&T's low - and mid-range scenarios that yield growth rates of 7.1 percent and 7.4 percent.[101] Ameritech's calculations yield growth rates of 8.7 percent and 9.2 percent.[102] NECA and Ameritech conclude that these growth rates support the reasonableness of NECA's forecast of an 8 percent growth rate.

(c) *Revised Model*

163. Many exchange carriers challenge the validity of AT&T's Revised Model. They argue that the model is flawed and that it overforecasts demand. Many of these criticisms apply to the model's accuracy in forecasting

individual companies' demand. Criticisms in regard to the model's efficacy in forecasting individual companies' demand are discussed in the following sections, which deals with the traffic sensitive forecasts of individual companies. In this section, we confine ourselves to a discussion of the exchange carriers' criticisms as they relate to the Revised Model's forecast of aggregate industry CCL MOU. The most important criticisms are (1) AT&T incorrectly excludes variables that capture the effect of the Commission's requirement that resellers pay originating common line charges beginning January 1, 1987;[103] (2) AT&T does not properly account for the introduction during 1987 of new IC services such as PRO America, Customer Switched Network Services (CSNS) and ReadyLine 800;[104] (3) AT&T uses a lag structure for the model's variables which is too short, particularly for the price variable;[105] (4) AT&T incorrectly models the shift of closed-end WATS MOU out of the common line category, which began on June 1, 1986;[106] (5) AT&T neglects to incorporate into its price series the effect of gross receipts surcharges that are assessed on customer bills in certain states;[107] (6) AT&T's optimistic forecasts of 1988 economic conditions must be revised due to the stock market "crash" of October 19, 1987;[108] and (7) AT&T's estimated elasticities differ from generally accepted values and inflate the forecast.[109]

(d) *Supplemental Supporting Analyses*

164. The exchange carriers also criticize AT&T's supplemental supporting analyses. They claim that flaws in these analyzes result in overstated projections of demand. Certain of the carriers' analyses yield growth forecasts below NECA's forecast growth rate of 8.0 percent. NECA states that its recast of the *December 24, 1986 Order* model yields a forecast growth rate between 8.0 and 9.9 percent and that this range demonstrates that NECA's forecast growth rate is reasonable.[110]

4. Rebuttal

165. AT&T's rebuttal addresses many of the criticisms made by the exchange carriers. AT&T defends the substance of its analyses but revises certain aspects of the Revised Model and the Analysis of Feasible Demand Elasticities.

(a) *Analysis of Historical Growth*

166. AT&T disputes NECA's contention that AT&T has exaggerated recent growth trends. AT&T contends that recent data show that demand during the summer of 1987 is more than 17 percent higher than that of the summer of 1986. AT&T states that although this growth rate may not be completely indicative of the likely level of growth to be expected in the future, it demonstrates a healthy and robust current performance and indicates that NECA's proposed 8 percent growth is unreasonably low.[111]

167. AT&T also argues that projected growth rates should be higher than the historical trend. AT&T explains that the substantial price reductions that occurred on January 1, 1987 and July 1, 1987 will have a lagged stimulative impact on 1988 CCL MOU and thereby increase the forecast growth rate above the trend.[112] AT&T also explains that since the historical demand data series that is provided in the 1988 TRP terminates in June 1987, the impact of the January 1, 1987 price reduction is only partially reflected in the data series and the impact of the July 1, 1987 price reduction is not reflected at all. AT&T argues that trending the data series will therefore understate the level of stimulated demand that will materialize in the period subsequent to the data series.[113]

(b) *Analysis of Feasible Demand Elasticities*

168. AT&T revises the analysis of feasible elasticities in light of criticisms made by the exchange carriers. AT&T states that the revised analysis reduces the forecast of 1988 CCL MOU to a range of 234,000 million MOU (11.5 percent annual growth) to 247,000 million MOU (15.6 percent annual growth) from the previously estimated rated of 241,000 million MOU (13.7 percent annual growth) to 255,000 million MOU (18.1 percent annual growth). AT&T states that the revised feasibility analysis incorporates lower price elasticities and lower forecasts of economic variables (resulting from the stock market "crash) as well as other changes.[114] AT&T says that the revised feasibility analysis results in forecasts that more closely approximate the Revised Model than the original feasibility analysis.

169. AT&T denies, however, that the time series used in the analysis is flawed. AT&T states that the price index series it uses is smoothed in order to properly incorporate the lagged effects of price reductions.[115]

(c) *Revised Model*

170. AT&T also revises the Revised Model, in light of criticisms made by the exchange carriers, as follows:[116] (1) inclusion of the effect of the change in treatment of resold WATS; (2) incorporation of the effect of gross receipts surcharges into the price index series; and (3) incorporation of revised data from DRI that reflect lowered expectations for economic performance in 1988 due to the stock market "crash". AT&T also incorporates TRP errata submitted to the Commission by the exchange carriers.

171. The overall effect of AT&T's revision is to reduce the Revised Model's forecast to 236,657 million MOU from 238,700 million MOU, a decrease of 2,043 million MOU.[117] Inclusion of MOU attributable to new IC services results in a forecast of 1988 CCL MOU of 239,308 million MOU.[118] AT&T assesses the individual impacts of its revisions as follows:[119] The changed treatment of resold WATS reduces the original forecast by 2,375 million MOU; revisions to reflect gross receipts surcharges increase the forecast by 927 million MOU; revisions in DRI's historical and forecast data reduce the forecast by 354 million MOU. AT&T states that the effects of recent developments in the financial markets are not expected to be significant. TRP errata reduce the forecast by 192 million MOU. Slight changes in the model's estimated elasticities also result from the revisions.[120]

172. AT&T also provides a confidence interval analysis for the Revised Model's forecast. AT&T calculates a one-sided (lower bound) 90 percent confidence interval of 2,859 million MOU.[121]

173. AT&T objects, however, to other criticisms made by the exchange carriers. AT&T argues that it has properly modeled the demand associated with new IC services;[122] that it has properly accounted for the shift of closed-end WATS MOU out of the common line category;[123] and that the elasticities derived from the model are reasonable.[124] AT&T does not appear to address the criticisms concerning the Revised Model's lag structure.

(d) *Supplemental Supporting Analysis*

174. AT&T revises the supplemental supporting analyses. These revisions are similar to the revisions it makes to the Revised Model.[125] The revised version of the *December 24, 1986 Order* model yields a forecast of 241.507 million MOU, significantly lower than AT&T's original version. AT&T also criticises NECA's version of the *December 24, 1986 Order* model. AT&T claims that the results of AT&T's version of the *December 24, 1986 Order* model show that the Revised Model is "reasonable, indeed, somewhat conservative."[126]

5. Discussion

175. The issues raised by the parties are complex and involve the theory and techniques of econometric analysis. Slight changes in technique may result in significant changes in forecasts. We believe, however, that the record before us is sufficient to enable us to reach definite conclusions concerning the reasonableness of the parties' various forecasts of 1988 CCL MOU.

176. In the discussion that follows, the assumption is made that there will be no overall price changes in interstate long distance service. The demand estimates reflect only this baseline in order to simplify the analysis. In fact, there will be reductions in rates which can be expected to stimulate additional demand. The size of this demand response will depend in large part on the size and distribution of rate reductions in AT&T's Transmittal No. 1063, which also has a January 1, 1988 effective date and is currently under review.

(a) *Analysis of Historical Growth*

177. In order to understand the issues pertaining to comparison of various demand forecasts to historical demand amounts, it is useful to inspect demand growth rates for recent years. Except for a discontinuity in the data due to the removal of WATS closed-end MOU from the common line category beginning in June 1986, determination of growth rates is relatively straightforward. The following chart summarizes demand growth since the inception of access charges:[127]

Traffic Sensitive MOU (millions) and Growth Rates Over Prior Period

July 1984 - June 1985 172,704
July 1985 - June 1986 189,378 (9.7%)
July 1986 - June 1987 213,852 (12.9%)

178. Other measures of growth during this period are also informative. A linear trend through adjusted monthly data results in 10.6 percent annual growth rate from the PYCOS trend amount to the trend forecast for 1988. *See* Chart 2 in Appendix A. A logarithmic growth rate for the same interval results in an annual growth rate of 12.4 percent. *See* Chart 3 in Appendix A. Finally, a simple comparison of July 1986 -June 1987 to July 1984 - June 1985 data results in an annual growth rate of 11.3 percent. Therefore, it is reasonable to characterize demand as growing at an 10.5-12.5 percent rate since the inception of access charges.

179. Although 1987 is not yet finished, NECA has received CCL MOU information for each month except December. NECA has recently informed this Bureau that its expected result for 1987 CCL MOU for the total industry is 215,460 million MOU. This amount can be directly compared to the CCL MOU amount for the PYCOS period for the total industry of 199,476 million MOU.[128] An annual growth rate for this half-year period is 16.7 percent. In other words, AT&T is correct in asserting that CCL MOU have been growing at an extremely high rate during recent months.

180. It is informative to compare NECA's forecast and the forecast produced by AT&T's Revised Model with various views of historical demand. Compared with the PYCOS view that NECA filed on October 2, 1987 (198,695 million MOU), NECA's forecast of 222,972 million MOU yields an annual growth rate of 8.0 percent. This is the percentage growth rate that NECA and the exchange carriers characterize as reasonable in their replies. Compared to NECA's most recent view of the PYCOS period (199,476 million MOU), NECA's forecast yields a slightly lower annual growth rate of 7.7 percent. Comparison of NECA's forecast to NECA's own estimate of 1987 CCL MOU (215,460 million MOU), however, tells an entirely different story: NECA's forecast annual growth rate is only 3.5 percent. Recently, the Commission compiled statistics concerning growth rates of switched interstate demand since 1980.[129] NECA's forecast growth rate is far lower than any growth rate recorded in that series.

181. The same comparison with historical views can be made for AT&T's forecasts. AT&T's Rebuttal Revised Model forecast is 236,657. Compared with NECA's earlier PYCOS forecast, the Revised Model's forecast annual growth rate is 12.4 percent, a few percent more than the historical trend. Compared to NECA's most recent PYCOS view, the Revised Model's forecast annual growth rate is 12.1 percent, slightly less than AT&T's first growth rate calculation. Compared with NECA's estimate of 1987 CCL MOU, however, the Revised Model's annual growth rate is only 9.8 percent. This is in the lower range of various measures of the historical trend. We also note that the lower bound of the rebuttal version of the Revised Model's forecast is 233,798 million MOU or 8.5 percent.

182. Only in the context of the analysis performed by the parties, which is based on comparison of forecasts with PYCOS period actuals rather than calendar year 1987 actuals (which, until recently, were very inexact), does AT&T's forecast seem slightly above the historical trend and NECA's forecast seem moderately below the historical trend. Comparison with the calendar year 1987 period clearly shows that NECA's forecast of 1988 demand is anomalously low while AT&T's forecast is somewhat below various measures of historical trends. NECA's and the exchange carriers' arguments that AT&T's demand forecast is overstated because it represents an increase over the historical trend are, therefore, moot.

(b) *Out-of-Trend Analysis*

183. It is worthwile to discuss NECA's and the exchange carriers' arguments that 1988 demand forecasts should be adjusted downward from the historical trend. NECA and the exchange carriers argue that an absence of substantial price reductions by AT&T after July 1, 1987 will reduce future demand growth.[130] Further, NECA and the exchange carriers claim that changed financial prospects resulting from the stock market "crash" will reduce economic vitality and thus have lowered reasonable expectations of 1988 demand levels. NECA and the exchange carriers argue that NECA's below-trend forecast is reasonable in light of these factors. AT&T argues, however, that there will still be potent lagged effects of price

reductions in 1987 on 1988 demand. Further, AT&T argues that the stock market "crash" has only moderately reduced economic expectations for 1988 and will not significantly reduce the level of 1988 CCL MOU. Therefore, AT&T argues, its estimate of above trend growth (compared with the PYCOS period) for 1988 demand is reasonable.

184. We believe that AT&T's arguments are valid. Significant lagged demand stimulation will occur in 1988. We observe that NECA and the exchange carriers ignore lagged price effects in much of the trend analysis which they use to support their assertions that 1988 demand growth will be below trend. First, they ignore the direct impact of lagged stimulation on 1988 demand.[131] Second, in many cases their incorporation of lagged effects into the trend analysis is faulty.[132] As AT&T observes, the lagged impact of price reductions that were made on January 1, 1987 and July 1, 1987 can be expected to have a significant impact on demand for the last half of 1987. (Indeed, the lagged effect of these price reductions probably accounts for the upsurge in growth in the last half of 1987. The data series that NECA and the exchange carriers employ to calculate forecast demand terminate with June 1987 data and thus fail to capture the upsurge in growth occurring in the second half of 1987.) As AT&T argues, a trend forecast of 1988 demand which properly accounts for the lagged effect of price reductions on the second half of 1987 yields a 1988 growth rate which is above, not below, the pre-July trend. We confirm this finding by updating the analysis of out-of-trend nominal price stimulation that we included in the *December 24, 1986 Order*.[133] *See* Attachment A to Appendix A.

185. We also agree with AT&T's assertion that the effect of the stock market "crash" on 1988 demand should be small. As discussed in Attachment B to Appendix A, we modeled the effect of lowered economic forecasts on expected demand in 1988 and found it to be minor. We also note that the "crash" occurred after NECA filed its forecast of 1988 CCL MOU and so could not have been a factor in NECA's calculations.

(c) *Revised Model*

186. We have carefully reviewed AT&T's Revised Model. As demonstrated in AT&T's rebuttal, AT&T has made an effort to revise the model in light of valid criticisms made by NECA and the exchange carriers. Specifically, AT&T revises the model to capture increases in resold WATS MOU, to include the effect of gross receipts surcharges in the price series and to reflect the change in economic forecasts due to the stock market "crash".

187. We agree with most of AT&T's rebuttal arguments concerning the criticisms made by NECA and the exchange carriers. First, AT&T's elasticity estimates appear to be reasonably derived from the data at hand. Second, AT&T appears to use a reasonable lag structure. Finally, AT&T appears to model WATS MOU in an appropriate manner.[134] AT&T's claim that MOU from new services introduced by the ICs in 1986 have not been captured by the Revised Model and must be added to the model's forecast is not, however, substantiated.

188. We have developed alternative versions of the Revised Model in order to gauge the impact that various assumptions which differ from AT&T's would have on the forecasting of 1988 demand. We have tested various assumptions that are at issue in this proceeding. We have tested the model's sensitivity to changes in lag structure and evaluated various methods of modelling WATS MOU. These alternative versions are described in detail in Attachment C to Appendix A. In summary, only two of the alternative models to which we gave serious consideration yield a forecast below AT&T's. The differences are relatively small. For the first version, the difference is only 1,398 million MOU; for the second version, the difference is only 111 million MOU. The three remaining models to which we gave serious consideration yield forecasts that are higher, in some cases much higher, than AT&T's. These differences were 1,098 million MOU, 3,678 million MOU and 4,333 million MOU.

189. We believe that AT&T's model yields a reasonable result, without further adjustment. Any econometric model, particularly one as complex as AT&T's, can and should be subject to further experimentation and improvement. This does not detract from the usefulness of the model or the reasonableness of its forecasts. In fact, our evaluation of the Revised Model leads us to the conclusion that the Revised Model reflects an attempt to forecast aggregate CCL MOU in accordance with high standards of statistical practice.[135]

(d) *Analysis of Feasible Elasticities and Supplemental Supporting Analyses*

190. The various feasibility analyses and supplemental analyses performed by AT&T, NECA and the exchange carriers may or may not be reasonable. They are primarily useful exercises which identify important issues concerning forecast procedures such as the issue of out-of-trend growth, discussed above. Moreover, most of these analyses are merely ancillary to the Revised Model and criticisms of the revised model.

(e) *Other Models*

191. In addition to testing alternative versions of the Revised Model, we also developed various models of our own. These models are variations of the Polynomial Distributed Lag (PDL) model developed in the *December 24, 1986 Order*. Forecasts derived from these models range from 241,848 million MOU to 249,862 million MOU. *See* Attachment D to Appendix A for a description of these models. We believe that the Revised Model is superior to these models from an econometric viewpoint, in part because the pooled cross-section method utilizes fully the TRP data.[136] Therefore, we rely on the forecasts produced by the Revised Model and our various alternative versions of the Revised Model in determining a reasonable forecast of 1988 CCL MOU.

(f) *1987 Forecasting Report Card*

192. In the *December 24, 1986 Order*,[137] we stated that we intended to place less confidence in present forecasts when forecasts for prior periods have been inaccurate. We believe that this standard should apply to the forecasts that have been submitted. As discussed above, AT&T asserts that comparisons of 1987 actuals to forecasts that were made by AT&T and NECA in the 1987 access tariff proceeding reveal that it is likely that NECA has grossly underforecast 1987 demand. These same comparisons, AT&T asserts, show that AT&T's forecast was quite accurate. NECA does not contest AT&T's assertions. We believe that AT&T's method of comparison is valid. Furthermore, we note that if NECA's current view of 1987 demand is correct then NECA's forecasting report card for

1987 is even worse than AT&T states.[138] NECA's current view of 1987 is 215,460 million MOU, which is 1,250 million MOU more than the view which AT&T used for comparison purposes. Using NECA's current view, NECA underforecast 1987 CCL MOU by 13,871 million CCL MOU; AT&T overforecast by only 1,824 million MOU. This demonstration supports our belief that AT&T's forecasts of 1988 CCL MOU are more credible than NECA's.

6. Conclusion

193. We believe that NECA's method of deriving forecasts of total industry CCL MOU is fundamentally flawed. NECA's flawed method is evidenced by the likelihood that NECA's 1987 forecast will be too low by about 13,000 million MOU. If the Revised Model's forecast for 1988 is accurate, then NECA's 1988 forecast also will be shown to be about 13,000 million MOU too low. Aside from any issues of NECA's proficiency in econometric analysis, there appears to be a systemic problem underlying NECA's probable pattern of underforecasting. The problem lies in NECA's practice of deriving demand forecasts by aggregating the individual forecasts of large carriers. Basic statistical theory demonstrates that the uncertainty associated with individual companies' forecasts is proportionally greater than the uncertainty associated with a forecast done directly on an aggregate industry-wide basis. The operations of any one company are prone to more risk than the operations of the entire industry. Hence, to the degree that companies make conservative (low) demand forecasts to protect themselves from the risk of underearnings for the traffic sensitive category, the aggregation of those forecasts for the pooled common line category will reflect an inappropriately high degree of risk aversion. The aggregate forecast thus will be unreasonably low. Hence, NECA should forecast aggregate demand directly, on the basis of generally accepted econometric theory, rather than to rely on summing the individual forecasts of the large carriers.

194. NECA's forecast of 222,971 million CCL MOU for 1988, which reflects a growth rate of approximately 3.5 percent over 1987, is patently too low. NECA filed this forecast on October 2, 1987. At that time, it may not have been yet apparent to NECA that extremely high demand would materialize in 1987 and would render its forecast unreasonable on its face. NECA, however, should have been responsive to changed circumstances.

195. Despite NECA's failure to revise its proposed CCL rate based upon revised demand estimates, we are confident that a reasonable estimate of CCL MOU for 1988 has emerged from the tariff review process. As discussed in detail above, we believe that the Revised Model, as presented in AT&T's rebuttal, generates a reasonable forecast of 1988 aggregate CCL MOU. The Revised Model is, however, new and has been subject to inspection by interested parties for only a few months. Futhermore, its predictive power has not yet been tested. Even assuming that the model is perfectly specified (which, of course, is extremely unlikely), statistical mean forecasts are merely the most likely of a large possible number of outcomes. Therefore, we believe it prudent to adopt the lower bound of the forecast's 90 percent confidence interval as the most reasonable estimate of baseline 1988 CCL MOU. This forecast represents baseline growth over 1987 of 8.5 percent.

196. AT&T states that it has accepted NECA's O/T split. NECA states, however, that its proposed O/T split must be revised because exchange carriers' forecasts of 1988 CCL MOU do not incorporate the Commission's requirement that originating charges be applied to the originating end of ReadyLine traffic. We accept NECA's claim and, therefore, adjust the lower bound of the Revised Model's forecast for the changed treatment of ReadyLine traffic. This results in an acceptable forecast of 1988 baseline CCL MOU, as displayed in the introduction to this section.

L. *Traffic Sensitive Demand*

1. Introduction

197. Proposed rates for local switching and local transport are based, in part, on forecasts of 1988 traffic sensitive (TS) demand minutes of use (MOU). TS MOU are equivalent to the sum of carrier common line (CCL) MOU and closed-end WATS and foreign exchange (FX) MOU.

198. Unlike NECA's common line pool, participation in NECA's TS pool is not mandatory. Currently, no Tier 1 company is a member of NECA's TS pool. Each Tier 1 company currently proposes TS rates singly or in non-NECA pooling arrangements. Many Tier 2 companies also propose TS rates singly or in non-NECA pooling arrangements.

199. In this section, we discuss the reasonableness of Tier 1 and Tier 2 companies' TS MOU forecasts. We find that certain of these companies have proposed unreasonably low forecasts of 1988 TS MOU. We determine adjustments to these companies' TS MOU forecasts and require these companies to reduce their proposed local switching and local transport rates in accordance with these adjustments. These adjustments are displayed for the Tier 1 companies in Tables 1 through 6 in Appendix B and for the Tier 2 companies and NECA's TS pool, in Tables 7 and 8 in Appendix B.

2. Petitions

(a) *Tier 1 Companies*

200. AT&T and MCI contest the TS forecasts of certain exchange carriers.[139] In particular, AT&T contests the reasonableness of forecasts made by Illinois Bell Telephone Company, Indiana Bell Telephone Company, New England Telephone Company, New Jersey Telephone Company, Southern Bell Telephone Company and South Central Telephone Company. AT&T develops various models to forecast the 1988 TS MOU of each of the Tier 1 companies. These models include analyses of feasible demand elasticities and the Revised Model.[140] AT&T recommends that the Revised Model's TS MOU forecasts be adopted in place of the Tier 1 exchange carriers' forecasts in those cases where the Revised Model's forecasts exceed those of the exchange carriers. In addition, AT&T analyzes the forecasts of the Tier 2 exchange carriers and, in many instances, recommends adjustments to these companies' forecasts of 1988 TS MOU. AT&T also analyzes NECA's forecast for its TS pool and recommends an adjustment to NECA's forecast.

201. AT&T develops specific rate adjustment factors (RAFs) for each Tier 1 company for which AT&T recommends a TS MOU adjustment. The RAFs which AT&T

proposes include the effects of offsetting incremental revenue requirement adjustments and interstate separation factor adjustments.

202. AT&T also provides a "tracking analysis" of the accuracy of various companies' 1987 forecasts on a company study area (COSA) level.[141] Using historical CCL data provided in the 1988 TRP for the first half of 1987, AT&T ranks COSAs in order of likelihood of underforecasting.[142]

203. MCI also criticizes Southern Bell's forecasts as unreasonably low. MCI argues that BellSouth's prediction of low demand growth in 1988 for Georgia and North Carolina is unreasonable because economic growth in these states is among the highest in the Nation. In addition, MCI argues that there should be no out-of-trend bypass in 1988 and that seven Tier 1 companies have incorrectly reduced their TS MOU forecasts by such estimates.[143] MCI argues that various factors, including the economic pricing of WATS lines, the implementation of reduced originating CCL charges, the strategic pricing of special access lines and many interexchange carriers' marketing strategies should lessen incentives to bypass the switched network.

(b) *NECA's Traffic Sensitive Pool and Tier 2 Companies*

204. AT&T claims that NECA has underforecast 1988 TS MOU for its TS pool and that many Tier 2 companies have underforecast 1988 TS MOU.[144] AT&T calculates that NECA is projecting demand growth of 5.3 percent for the TS pool. AT&T states that many Tier 2 carriers' demand projections indicate significantly understated growth when compared to the industry as a whole or when each carrier's projected growth rate is compared to its own historical growth trend. AT&T claims that 51 Tier 2 carriers have underforecast demand for 1988. AT&T proposes adjusting prospective TS MOU growth rates to 13.00 percent for the NECA TS pool and for these Tier 2 carriers. AT&T asserts that 13.00 percent is the industry growth rate for 1988 compared to the PYCOS period.

3. Replies

(a) *The Revised Model*

205. Most of the Tier 1 exchange carriers argue that the AT&T Revised Model's analysis of disaggregate (*i. e.*, COSA level) TS demand is badly flawed and that the model's forecasts should not be relied upon. Many of these criticisms have been discussed in the carrier common line demand analysis in the preceding section, which addressed AT&T's analysis of CCL demand. In that section, we found that the Revised Model provided the most reasonable aggregate industry CCL forecast of all available models.

206. The exchange carriers make some criticisms, however, that relate exclusively to the Revised Model's forecast of TS MOU on a COSA level. NYNEX argues that the Revised Model overstates historical demand, when used to simulate 1987 TS MOU.[145] NYNEX also argues that although New England Telephone has underforecasted 1987 TS MOU, NYNEX's forecasts of 1987 MOU are accurate on a holding company level.[146] NYNEX also argues that AT&T's model contains an overforecasting bias for areas of the Nation which expect to experience higher income growth than the national average.[147] Ameritech argues that the Revised Model incorrectly employs a single set of nation-wide elasticities in order to project each COSA's TS MOU.[148] Continental Telephone Company (Contel) states that the historical economic and demographic data which the Revised Model employs on a state level of aggregation fails to take into account important differences between rural and urban serving areas within a given state.[149] General Telephone and Electronics Company (GTE) argues that the Revised Model's forecast for GTE differs from GTE's forecast only at a COSA level; that on a holding company level the Revised Model's forecast is the same as GTE's.[150] US West argues that the Revised Model should employ billed TS MOU from the 1988 TRP, instead of adjusted TS MOU, because billed demand more accurately captures historical TS MOU trends.[151]

(b) *Other Issues*

207. The exchange carriers argue that out-of-trend bypass is a real phenomenon which affects planning for company operations in the coming year. NYNEX points out that the concentration of businesses in New York City has resulted in a greater level of bypass for New York Telephone Company than for other companies.[152] NYNEX also points out that AT&T's assumption that there will be out-of-trend migration of WATS users to special access services in 1988 directly contradicts MCI's assertion that there is no out-of-trend bypass in 1988.[153] BellSouth and NYNEX both point out that their proposed high capacity special access rates represent decreases from current rates and therefore provide a greater incentive to bypass.[154]

208. BellSouth argues that MCI's view that BellSouth's forecasts are unreasonably low, given the high rates of economic growth in the region which BellSouth serves, is refuted by the fact that diverse economic conditions exist with the region serviced by BellSouth.

(c) *NECA's TS Pool and Tier 2 Companies*

209. NECA does not appear to address AT&T's argument that NECA has underforecast demand for the TS pool. Many Tier 2 companies also do not address AT&T's arguments that they have underforecast demand for 1988.[155] Several Tier 2 companies, however, do address AT&T's allegations. United asserts that low growth in several of its operating territories is reasonable, given the fact that there is no growth, or negative growth, in access lines in these territories.[156] Contel asserts that AT&T has used erroneous data and that Contel's historical growth rates are much lower than AT&T claims.[157] Bay Springs Telephone Company asserts that AT&T has incorrectly calculated Bay Springs historical growth rate. Elkhar Telephone Company claims that depressed economic con ditions are responsible for its low demand projection Centel simply states that it "stands by" its forecasts.

4. Rebuttals

(a) *Revised Model*

210. As discussed in the preceding section, AT&T revises the Revised Model in the light of certain exchange carriers' and NECA's criticisms. The version of the Revised Model in AT&T's rebuttal produces, in general, somewhat lower forecasts of each COSA's 1988 TS MOU. AT&T contests, however, many of the exchange carriers' and NECA's criticisms as they relate to disaggregate TS demand forecasts.[158] AT&T argues that Ameritech's cal-

culation of different elasticities for each of its operating companies is the result of defects in Ameritech's econometric methods.[159] AT&T also states that Contel has not demonstrated that serving area-specific factors rather than state-specific factors would lower forecasts produced by the Revised Model for Contel's COSAs.[160]

211. AT&T does not appear to address NYNEX's criticism that the Revised Model overforecasts TS MOU for the current year (1987). AT&T also does not appear to address GTE's assertion that adjustments should not be made to various GTE COSAs because the Revised Model's aggregate forecast for GTE agrees with GTE's aggegrate forecast. AT&T also does not appear to address NYNEX's assertion that adjustments should not be made to New England Telephone Company's forecast because NYNEX's forecasts have been highly accurate on a holding company basis in the past.

(b) *Other Issues*

212. MCI emphasizes that BellSouth has not provided an adequate explanation of its out-of-trend bypass estimates and that BellSouth's forecasts are unreasonably low.

5. Discussion

(a) *Revised Model*

213. Although, as explained in the preceding section, the Revised Model is the best available model for predicting 1988 CCL MOU, we are not convinced that the model should be relied upon for predicting disaggregate TS MOU. There are several reasons which argue against acceptance of the Revised Model's disaggregate TS MOU forecasts. First, the specification of the model is highly complex and, as various exchange carriers suggest, it is possible that the model contains hidden regional biases or other biases. These biases could result in significantly inaccurate forecasts for specific COSAs. Second, Contel may be correct in asserting that the Revised Model does not adequately capture the unique characteristics of varying service areas within a state and that inaccurate forecasts for the various exchange carriers operating within the state may result. Third, it is not certain that uniform elasticities should be applied to all regions of the Nation. Finally, as displayed in Table 6 in Appendix B, in certain instances the Revised Model's forecasts depart substantially from a simple linear trend forecast.[161] We have not been able to ascertain the reasons for these deviations or determine whether such deviations are reasonable.

214. A decision regarding whether to adopt the Revised Model's TS MOU forecasts in place of the forecasts of individual exchange carriers requires more time and study. Although we have tested the model's CCL MOU forecasting characteristics, we have been unable to test the model's TS MOU forecasting characteristics because of time constraints inherent in the access review process. Moreover, it would be beneficial to compare the model's disaggregate TS MOU forecasts with the TS MOU actuals that materialize in 1988. Such a comparison would provide a worthwhile practical test of the model's predictive power. As a result of these considerations, we have employed the Revised Model's disaggregate TS MOU forecasts in a limited manner only. As discussed below, the Revised Model's disaggregate TS MOU forecasts have been used only to lessen or eliminate the upward adjustments that the Commission would otherwise make to certain companies' demand forecasts.

(b) *Out of Trend Bypass*

215. It is not possible to reach a conclusion concerning the accuracy of each exchange carrier's out-of-trend bypass adjustment. Extremely detailed information concerning each of the relevant COSA's market characteristics is required for a determination of the reasonableness of these estimates. Furthermore, bypass is only one of many factors affecting the level of TS MOU. As discussed below, a more general approach is warranted in determining the reasonableness of companies' TS MOU forecasts.

(c) *Tier 1 Adjustments*

216. In order to determine the reasonableness of each Tier 1 exchange carrier's 1988 TS MOU forecast, we have performed three tests. Two of the tests determine the accuracy of each carrier's forecasts in previous years. The third test determines whether each carrier's forecast departs anomalously from an historical trend based on that carrier's actual TS MOU data. The result of these tests determines whether each carrier's TS MOU forecast for 1988 should be subject to reduction.

217. The tests are applied on an operating company basis as are adjustments that are made to forecasts which fail the tests. The operating company level is the most appropriate level for testing and making adjustments. COSA forecasts are made on an extremely disaggregrate level; tests and adjustments of these forecasts are subject to excessive error. On average, tests and adjustments of operating companies' forecasts are subject to much less error. We have considered GTE's and NYNEX's endorsement of forecast review on a holding company level. Although tests and adjustments on this level would be less subject to error than on either an operating company level or study area level, the drawbacks to this approach outweigh the benefits. In most cases, the operating company rather than the holding company, is responsible for making demand projections for its serving area. Review of demand forecasts on an operating company basis places the responsibility for accurate forecasting directly on the operating company, where it belongs. Therefore, it is important to review demand forecasts on an operating company level.

218. As discussed in Section V.A, *supra*, the Bureau is engaged in an ongoing process of review of the exchange carriers' operating statistics. An important part of that review consists of retrospective evaluation of the accuracy of exchange carriers' forecasts by comparing them with actuals for the forecasted period. Such monitoring allows the development of a "track record" concerning the accuracy of each company's cost support. Enough information has been accumulated during the last few years to enable the Commission to begin using the "track record" of each Tier 1 company's previous demand forecasts for judgments concerning the credibility of the company's proposed forecasts. We have a complete record concerning the accuracy of each of the Tier 1 company's forecasts for the second annual access test year (June 1985 - May 1986). Also, we have sufficient data for 1987 to make a preliminary judgment concerning the accuracy of each Tier 1 company's forecast for third access test year (calendar year 1987).

219. For the first test, the 1985-86 test year data are extracted from the 1987 TRP. The extracted data consist of CCL MOU forecasts and actuals for the second test year. We choose to use CCL MOU data rather than TS MOU data, because the CCL MOU data are substantially more accurate.[162] For the purpose of measuring the accuracy of carriers' forecasts, CCL MOU data are an adequate surrogate for TS MOU data. (TS MOU data merely include closed-end WATS and FX MOU in addition to CCL MOU.) Since, however, the CCL MOU forecasts that are submitted to NECA by the Tier 1 companies do not include estimates of demand stimulation, we allow actuals to exceed forecasts by as much as 5 percent before making a finding of underforecasting by the carrier. This 5 percent figure substantially exceeds the level of demand stimulation in the second test year. Hence the test sets stringent requirements for a finding of underforecasting for carriers. *See* Table 4 in Appendix B for a list of companies' forecasts which fail this test.

220. The second test is similar to AT&T's "tracking analysis" of the accuracy of the various Tier 1 companies' 1987 forecasts, as described above. At our request, AT&T updated the tracking analysis by using the most recent CCL MOU data from January 1987 to August 1987 (eight months of data), and displaying the data on an operating company basis.[163] AT&T added a generous stimulation estimate to each carrier's 19871 CCL MOU forecast in order to insure avoidance of erroneous findings of underforecasting.[164] At our request, AT&T ranked the carriers according to the likelihood of underforecasting.[165] We made a finding of probable underforecasting if eight months of a company's CCL MOU data comprised more than 68 percent of its adjusted forecast. Actuals which exceed 68 percent almost certainly imply underforecasting. If actuals exceed 68 percent of the adjusted forecast, demand would have to grow at a negative rate for the remainder of 1987 in order to prevent actuals from exceeding forecasts. Since demand is growing at an extremely fast pace in the last half of 1987 and since seasonality factors do not significantly affect the proportion of demand for the last third of the year relative to the earlier portion of the year, negative growth in demand for the remainder of 1987 is unlikely. *See* Table 3 in Appendix B for a list of companies' forecasts which failed this test.

221. The third, and final, test determines whether a company's forecast departs anomalously from its own historical TS MOU experience. We compare each company's forecast to a simple linear trend of that company's TS MOU monthly actuals from July 1984 through June 1987.[166] Forecasts are found to be anomalous only if they fall below the lower bound of the 95 percent confidence interval of the trend line. As discussed in the preceding section, a linear trend line fitted through aggregate CCL MOU data which terminate in June 1987 will underestimate 1988 demand. It is probable that a trend line that is fitted through TS MOU data which terminate in June 1987, similarly will underestimate 1988 demand. Hence the lower bound of the trend's 95 percent confidence interval indicates an extremely low forecast. Only a few carriers fail this test. *See* Table 5 in Appendix B for a list of companies' forecasts which fail this test.

222. No single test determines whether a carrier's forecast is subject to adjustment. A carrier's forecast is subject to adjustment only if the carrier fails both the trend test and at least one of the forecasting "report card" tests. *See* Table 1 in Appendix B for a list of companies' forecasts which are subject to adjustment.

223. Finally, the forecasts produced by AT&T's rebuttal version of the Revised Model are compared to the trend forecast. *See* Table 6 in Appendix B for comparison of the forecasts produced by the Revised Model and those produced by the linear trend method. Forecasts subject to adjustment are adjusted only if both the Revised Model forecast and the trend forecast exceed the iarrier's forecast, in which case the carrier's forecast is adjusted to the lesser of the Revised Model's forecast and the trend forecast. *See* Table 1 in Appendix B for a list of companies' forecasts that have been adjusted and the amounts by which they have been adjusted. Table 1 also contains Rate Adjustment Factors (RAF) which must be applied to companies' switched TS rates to implement the effect of the TS MOU adjustments.

224. We regard the criteria for both testing the reasonableness of the exchange carriers' forecasts and for determining the adjustment amount for those forecasts found to be unreasonable to be conservative. This is shown by the fact that the total magnitude of the TS MOU adjustments is significantly less than the aggregate difference between the exchange carriers' TS MOU forecasts and the trend forecasts or the carriers' forecasts and the Revised Model's forecasts.[167] Whether this conservative approach is continued in future years depends upon various factors. More vigorous demand adjustments may be required in the future if the accuracy of the exchange carriers' forecasts does not improve.

(d) *Adjustments to NECA's Traffic Sensitive Pool and Tier 2 Companies.*

225. AT&T's analysis of the Tier 2 companies' demand forecasts and NECA's TS pool demand forecasts demonstrates that many of these companies have projected unreasonably low demand for 1988. AT&T demonstrates that most of the companies' growth forecasts fall significantly below their own one and two year historical growth rates. (Some companies have not supplied, however, the TRP data from which historical growth rates can be calculated. By comparing these companies to other Tier 2 companies, however, it appears that they too also project unreasonably low demand.)

226. Some companies do not even respond to AT&T's claim that they have underforecast TS MOU for 1988. Other companies, however, present explanations which appear reasonable concerning the apparent contradiction between historical and projected growth. We have carefully considered the arguments presented by companies that reply to AT&T's allegations. In cases where companies present a reasonable explanation we refrain from adjusting their TS MOU forecast. In cases, however, where companies do not provide a reasonable explanation or provide no explanation at all, they become subject to adjustment.

227. We accept data that Contel and Bay Spring Telephone Company provide in their Replies in order to correct AT&T's growth rate calculations. We also rely on Midland Telephone Company's cost support to calculate its forecast growth rate. Despite these revisions, these companies' forecasts still warrant adjustment. United Telephone Company's explanation that stagnant access line growth confirms the reasonableness of low growth forecasts in Iowa, Kansas and Nebraska appears to be reason-

able. Therefore, no demand adjustments are required for these operating territories. We are not persuaded by Elkhart Telephone Company's generalization that low economic growth in its operating territory is the reason for its low demand forecast. Similarly, Centel's mere assertion that it stands by its demand forecasts is not persuasive. Finally, we refrain from adjusting Sylvan Telephone Company's demand forecast because it is a concurring carrier in Rochester Telephone Company's tariff and demand adjustments are already required of Rochester.

228. AT&T's proposal to adjust the Tier 2 companies' and NECA's TS growth rate to 13.00 percent is not reasonable. In Appendix A, we found a baseline annual growth rate for aggregate CCL MOU of approximately 12 percent over the PYCOS period to be reasonable for 1988. Since TS MOU is probably growing more slowly than CCL MOU and since smaller Tier 2 companies may be growing more slowly than the industry average, a growth rate of 8-9 percent appears to be a cautious but reasonable forecast of average TS MOU growth in 1988 for the Tier 2A companies. Similarly, a growth rate of 6-7 percent appears to be a cautious but reasonable forecast of average TS MOU in 1988 for the Tier 2B companies.

229. We require adjustment to a Tier 2A carrier's demand forecast only if the carrier has failed to adequately reply to AT&T's allegations and its forecast growth rate is less than 8 percent and is less than both its one and two year historical growth rates. In these cases, we adjust its forecast growth rate to no more than 9 percent, by whole percentage points. We require adjustment to a Tier 2B carrier's demand forecast only if the carrier has failed to adequately respond to AT&T's allegations and its forecast growth rate is less than 6 percent and is less than both its one and two year historical growth rates. In these cases, we adjust its forecast growth rate to no more than 7 percent, by whole percentage points.

230. We also require NECA to adjust its demand forecast for the TS pool. NECA's TS pool consists of small companies that would be Tier 2 companies if they filed their own TS tariffs. Although NECA has not supplied sufficient data from which to calculate historical demand growth rates for the TS pool, this may be due to the fact that many of the companies in the TS pool cannot provide accurate or timely data. We require NECA to adjust it demand forecast by three percentage points,to 8.3 percent.

231. A list of Tier 2A companies for which AT&T proposes TS MOU adjustments appears in Table 7 in Appendix B. Table 7 also includes NECA's TS pool. A list of Tier 2B companies for which AT&T proposes adjustments appears in Table 8 in Appendix B. In each of these tables, we indicate which companies are required to adjust their TS MOU forecasts and the magnitude of these adjustments. We also calculate the Rate Adjustment Factors (RAF) which must be applied to the switched traffic sensitive rates of those companies for which adjustments are required.

(e) *Incremental Revenue Requirement Offsets*

232. In its Petition, AT&T calculates amounts of incremental revenue requirements that it claims should be associated with the TS MOU adjustments it proposes for various Axchange carriers.[168] AT&T explains that increased TS MOU require that the marginal costs of service be added to total company costs and be separated to the interstate jurisdiction. Further, AT&T states that increased TS MOU necessitates adjustment to certain interstate separation factors. Incremental revenue requirements associated with adjustments to TS MOU function as a partial offset to the decreases in traffic senstive rates that increased estimates of TS MOU require. AT&T calculates RAFs that include offsets for marginal service costs as well as TS MOU adjustments.

233. AT&T disputes, however, the magnitude of the marginal cost factor that NECA proposes. NECA proposes a marginal cost factor of $0.3188 per extra dollar of revenue. NECA's estimate is adopted by a number of major exchange carriers, including many of the Bell Operating Companies and many of the larger Independents. AT&T asserts that NECA's estimate is excessive because the estimate is based on an out of date study from 1982 which fails to account for recent technological changes. AT&T calculates that a more accurate estimate is $0.1822 per extra dollar of revenue. In reply, NECA defends the relevance and accuracy of its study.

234. Although AT&T is correct in asserting the theoretical linkage between marginal costs of service and incremental changes in traffic sensitive demand, inclusion of offsetting marginal costs is not required for the calculation of reasonable RAFs to adjust TS MOU forecasts. The adjustments that we make to certain carriers' TS MOU forecasts are conservative; in effect, this conservatism already allows for factors such as marginal cost changes. As noted above, for example, the demand adjustments are already set well below the likely expected levels of growth. Also, the carriers have not adequately adjusted the TS MOU forecasts for the effect of demand stimulation. In the Tier 1 1988 TRP Summary Report (Roll-up), the aggregate Tier 1 forecast of TS stimulation is less than one half of one percent of the carriers' baseline forecasts.[169] Given the magnitude of the reductions to proposed access rates that this Order requires carriers to make, it is likely that demand stimulation will significantly exceed the carriers' estimates. Since, however, we are not requiring upward adjustments to carriers' estimates of demand stimulation, it would be unreasonable to offset the effect of the required TS MOU adjustments by including marginal cost effects. As a result of these considerations, TS MOU adjustments should be reasonable without further adjustment for marginal costs, although further refinement of both demand growth and marginal cost factors may be warranted in future filings.

M. *Special Access Surcharge Revenues*

235. The special access surcharge is assessed as a flat, $25 per month charge on special access lines capable of "leaking" usage into the public switched network. The charge is applied to voice-grade special access lines connected to a switching device such as a PBX which can connect the line to a local exchange line; the charge is not assessed if the customer certifies that the line is not used to leak. Surcharge revenues are applied to recover CL pool revenue requirements. NECA forecasts that surcharge revenues for 1988 will be $64.26 million. This represents a reduction of about 52 percent from the revenues in the PYCOS year, reported by NECA as $133 million.

236. AT&T challenges this projection, arguing that while historical surcharge revenues have declined substantially since they were first imposed in 1984, this variance is explained by changes in regulatory decisions and related changes in the manner in which LECs administer the charge. It cites for example changes in the certification procedures, the application of the charge to WATS lines

beginning in June 1986, and an AT&T program to reconcile its circuit records against LEC billing systems which identified a substantial number of lines which were erroneously billed surcharges. It claims that these unique and non-recurring events contributed to the historical decline in surcharge revenues but will not recur. AT&T contends that NECA's surcharge revenues are understated by at least $49 million.

237. NECA defends its revenue estimate by means of a statistical study which indicates that the historical trend, adjusted for application of the surcharge to WATS lines, projects a decline from the TRP base period of 53 percent, and the trend line provides a good fit to the actual data. NECA also contends that the LECs have little ability to check the accuracy of surcharge reporting. In NECA's view, the continuing decline in surcharge revenues can be attributed to the increasing number of surcharge exemptions received by the LECs on a monthly basis rather than to one-time auditing efforts by AT&T.

238. Because of the inherent difficulties of verifying surcharge exemptions, it is also difficult to accurately forecast surcharge revenues, as NECA observes. The Commission recently initiated a Rule Making to examine issues raised by the surcharge, including the problems raised by the current certification process.[170] Nevertheless, NECA's projection is troubling. First, NECA does not state how it developed the projection. If it used the statistical method described in the reply, that approach appears selective and possibly self-serving. In developing its other demand forecasts NECA simply totalled individual projections of the LEC pool members, and NECA objects to the application of statistical methods for demand quantities which seem much more suited to such analysis, such as total CCL minutes of use. The one-time events cited by AT&T do appear to explain some of the revenue decline, and the choice of this statistical method may represent a willingness to ignore such factors.

239. Moreover, the anaylsis itself in unconvincing. It projects that monthly surcharge revenues will decline from the last reported actual level of $9.4 million in July 1987 by about $320,000 a month to $3.4 million at the end of the test year in December 1988 and, by extrapolation, to zero by November 1989. This seems very unlikely if the LECs make reasonable efforts to assess the surcharge properly.

240. Any correction must necessarily be an estimate, but it would seem that we can at least improve NECA's estimate by eliminating the effects of the early period of surcharge implementation before the certification program was clarified and before the surcharge was applied to WATS. From July 1986 to July 1987, surcharge revenues declined from an annualized rate of $146.9 million to $113.5 million, a rate of 22.7 percent.[171] If we extrapolate that reduction to the eighteen month period from the middle of the PYCOS year to the middle of the test year, it yields projected surcharge revenue of about $88 million,[172] $24 million higher than NECA's projection. This appears a reasonable and in fact conservative adjustment to NECA's estimate.

VI. OTHER ISSUES

A. *CCL Originating and Terminating Rates*

241. Beginning in July 1986 the Commission directed that separate rates be applied to terminating and originating CCL usage in order to deter uneconomic bypass. Bypass is considered more likely to replace outgoing traffic of large users at particular locations than at the receiving end, where customers are likely to value universal termination. As a temporary measure, the Commission directed that the terminating premium CCL rate be set at 4.33 cents per minute until November 30, 1988 unless the total CCL revenue requirement could be recovered at a lower terminating rate. In its support material, NECA contends that the projected price differential between originating and terminating usage at its proposed 0.23 cents per minute originating rate provides a significant price incentive to develop bypass alternatives at the terminating end and increases the risks of revenue shortfalls from forecasting and data reporting errors. NECA suggests that alternatives to the frozen terminating rate be considered. In its comments, USTA agrees with NECA suggestion and proposes that the Commission permit NECA to set the originating CCL rate at 0.50 cents per minute on the effective date of the pending tariffs, January 1, 1988.

242. Whatever the merits of reducing the differential between originating and terminating CCL rates, we must recognize that the rule governing the calculation of CCL rates in 1988 was adopted upon the recommendation of a federal-state joint board and in a formal Rule Making which expressly considered this issue.[173] Any modification of that rule must be accomplished through appropriate proceedings. A waiver that effectively changes the rule would not be appropriate. The CCL rate shall be calculated as provided by current Commission Rules, based upon the adjustments found to be necessary in this Order.

B. *Relationship of Rate Changes to Intrastate Rates*

243. ALC asserts that the various rule changes implemented by the LECs in these tariffs which shift costs to the interstate revenue requirement necessarily implies that costs are shifted away from the intrastate jurisdiction. ALC urges the Commission to require any exchange carrier that increases rates due to jurisdictional cost shifts to present documentary evidence that filings have been made in intrastate jurisdictions proposing corresponding reductions in intrastate revenue requirements. It further urges that tariffs be suspended at least until such time as these intrastate filings are made.

244. Once the division of expenses and investment is established by the separations process, the function of ratemaking becomes the responsibility of the respective state and interstate agencies. The use of our suspension authority to impose changes in intrastate rates, as ALC requests, would clearly intrude on matters properly within the jurisdiction of the states. The request is denied.

C. *Uncollectibles*

245. Uncollectible revenues are included in interstate revenue requirements to reflect properly billed revenues which cannot be collected. AT&T states that several carriers have overstated the amount of uncollectible revenues reflected in access rate computations. AT&T asserts that GTE (Washington and Florida), Michigan Bell, and three Bell Atlantic Companies (Pennsylvania Bell, New Jersey

Bell, and Diamond Bell [Delaware]) overstated uncollectibles by a total of approximately $4 million.[174] It notes that this Bureau declared in our December 24, 1986 Access Order that "projected uncollectible revenues should normally be consistent with historical levels, absent justification." *December 24, 1986 Order* at para. 79. AT&T characterizes the increases in uncollectibles as substantial, unexplained and unjustified, and asks that the Commission order these carriers to reduce their revenue requirements accordingly.

246. The Michigan Bell reply demonstrates that its actual uncollectible rate through September 1987 is nearly the same as the projected test period ratio. GTE replies that the increase in uncollectibles in Florida is due to increased IC activity. The Washington uncollectible revenue figures are based on internal review of accounts receivable from ICs, GTE states. Bell Atlantic states that a study in one of its jurisdictions shows a decline in collection rates on overdue accounts.

247. As we concluded in our review of this same issue last year, the best predictor of the rate of uncollectible access charges is the historical level of uncollectibles. If a carrier believes this rate is likely to change, it should specify the basis for the change and quantify its calculation of the projected amount. Michigan Bell's information appears to meet this standard. GTE, however, provides no evidence of the causes it cites, and no linkage between those causes and its proposed rates. Similarly, the relevance of the study in one Bell Atlantic jurisdiction to uncollectibles in three others is questionable, and the basis for the specific proposed ratios unexplained. GTE and Bell Atlantic will accordingly be required to submit modifications to correct their uncollectibles.

D. ***Cash Working Capital***

248. Cash working capital is the amount of investor-supplied funds required to pay operating expenses incurred in providing common carrier services prior to the receipt of revenues for those services. It is generally computed by determining the revenue lag and the expense lag and multiplying the difference by the carrier's average daily operating expenses. AT&T charges that GTE, Contel and Nevada Bell have overstated their cash working capital by using an arbitrary and unusually long net lag period. This results in a total overstatement of cash working capital by approximately $100 million, according to AT&T, and interstate revenue requirement overstatements totaling $18 million.[175] The average net lag period for the BOCs is 16.71 days, and for the United companies 16.81 days; GTE, Contel and Nevada Bell used a net lag period of 45 days. AT&T challenges these LECs' calculations of net lag period as unreasonable and unjustified, and states that the Commission should direct them to use a more reasoned analysis at arriving at their cash working capital requirements, possibly by using the average BOC net lag period.

249. GTE responds that the Commission has no established or mandated net lag period, and that GTE has used the 45-day net lag period that is used by the Federal Energy Regulatory Commission (FERC). GTE defends this period as reasonable because most interstate access services are billed in arrears. GTE notes that local service revenues are billed in advance, which explains the short average lag time of the BOCs.

250. Contel explains its calculation of a 45-day net lag period as follows: access minutes of use are received about 15 days after usage, and require another 15 days to provision on carrier access bills. Carriers then have a 31-day pay period, so that Contel receives its revenues some 60 days after service has been rendered. Contel's expenses, however, must be paid on an average of 15 days after service is provided.[176] The resulting net lag period, states Contel, is 45 days.[177]

251. Nevada Bell explains its selection of a 45-day net lag period as reasonable under the circumstances. As a participant in the NECA TS pool, Nevada Bell has not computed a cash working capital rate base item until this annual filing, and accordingly has not conducted a current interstate lead/lag study. Due to the pending status of the Commission's consideration of cash working capital calculations in CC Docket No. 86-497, Nevada Bell believes it would be unwise to initiate such a study at this time. Instead, Nevada Bell has used the 45-day net lag period in use by some other carriers, and states a willingness to modify this methodology to conform to the Commission's ultimate determination in the above-referenced docket.

252. NECA responds that $10 million of the alleged $18 million overstatement is assigned to common line. NECA notes that, because cash working capital was not included as a component of NECA's common line revenue requirement, adjustments to any LEC forecasts should not impact the common line revenue requirement.

253. The Commission has now adopted a final Order in the Docket 86-497 proceeding.[178] That Order considers and rejects the proposed methodology that GTE, Contel and Nevada used to compute 1988 access charges. The Commission has elected to retain the lead/lag study approach that most carriers have been using. Since these three carriers have not performed such a study, it will be necessary to adjust their working capital computations until rates can be revised to reflect such a study. We have decided that a disallowance of $8 million would be appropriate.

E. ***Rate of Return Targeting***

254. MCI charges that New York Telephone has miscalculated its rate of return for equal access for 1987, and reports a 12 percent rate of return although its actual earnings were nearly 21 percent. MCI says that without a great deal more data it is unable to specify exactly how this miscalculation happened, but that it has calculated the correct the rate by recalculating the stated revenues and expenses on New York Telephone's COS-7 form.[179]

255. In its 127-page reply comments, NYNEX responds to specific allegations in the petitions and comments and generally defends its filing, but does not reply directly to MCI's charge that it has miscalculated its rate of return for 1987 by almost 10 percent.

256. New York Telephone's revenues and expenses do appear to indicate that it earned substantially above 12 percent for the Equal Access rate element in the PYCOS historical period. While this does not necessarily imply an error in the proposed rates, it is an apparent discrepancy in the support data which should be explained. New York Telephone is directed to do so by letter no later than January 29, 1988.

F. ***New York Telephone Network Support Expense***

257. AT&T charges (AT&T Petition, App. D-15) that New York Telephone included in its total company budget $6,020,000 as network support expense, but that in developing its interstate test year amounts NYT used $12,039,994 as its network support amount.[180] Since the former amount has been multiplied by the interstate base ratio of .134876, NYT's interstate test revenue requirement would have been $811,953 less. AT&T asks the Commission to require NYT to explain this discrepancy or remove $811,953 from its interstate revenue requirement.

258. NYT replies that the display of $12,039,994 constitutes a display error confined to a single workpaper and does not affect the revenue requirement. NYT states that while the correct number, $6,019,994, was doubled, the factor by which it is multiplied was halved, so that the ultimate result, $1,623,904, is the same in either case.

259. While NYT's arithmetic still appears to be inaccurate (half of the given figure of $12,039,994 would be $6,019,997, not $6,019,994), its off-setting errors does not appear to have affected the proposed rates. No further action appears necessary.

G. *New York Telephone Operator Services Expenses*

260. US Sprint and AT&T charge (Sprint Petition at 20-21, AT&T Petition at App. D-14) that New York Telephone has misallocated "0-" operator pass-through costs.[181] US Sprint states that NYT appears to have underallocated the revenue requirement associated with its second local transport termination rate element, the rate applying to those carriers capable of receiving 0- interstate calls passed through to the interexchange carrier by the NYNEX operator. US Sprint says that it appears that the balance of the revenue requirement remains in the costs recovered by the first local transport termination rate element (*i. e.*, those carriers which do not provide operator services). US Sprint says that this apparent underallocation is demonstrated by a comparison of NYT's 1988 and 1987 operator services demand and costs.[182] Further, says US Sprint, a comparison of NYT's and NET's 1988 demand forecasts supports the same conclusion.[183]

261. AT&T states that NYT has improperly included BOC operator services expenses in its interstate access revenue requirements. AT&T states that NYT's traffic expense increase assigned to interstate access raises significant questions, but that NYT has provided no explanation. AT&T asserts that NYT should not have assigned to its interstate access revenue requirements any increase in operator wages and salaries resulting from its assumption of intrastate intraLATA operator functions, since these wages and salaries should be assigned to the intrastate jurisdiction. Further, says AT&T, NYT should not have assigned to its interstate access revenue requirements any operator expense related to its interstate intraLATA and corridor services, since these are properly allocated to the "other interstate" revenue requirement.[184] AT&T asks the Commission to investigate NYT's allocations.

262. New York Telephone replies that its operator services revenue requirements are reasonable. NYT Reply at 75-78. It responds to the US Sprint contentions by stating that the two rates are developed independently of each other, with all 0- pass-through costs assigned only to ICs with operator services. NYT explains US Sprint's calculation of a decrease in total operator services revenue requirements from 1987 to 1988 by stating that Sprint has used the wrong figure for the 1987 costs.[185] NYT explains the difference in local transport termination rates for NYT and NET by noting the difference in the characteristics of the usage of the different customer populations.[186]

263. NYT also dismisses AT&T's concerns regarding overallocation to 0-pass-through costs. NYT states that the PYCOS period reflects only a fraction of the operator positions, since the majority of conversions in the takeback of operator services has occurred or will occur in the third and fourth quarters of 1987.[187] Finally, NYT notes, the $1.6 million decrease in "other interstate" AT&T noted is the result of decreasing NYT Corridor traffic due to equal access conversions, and is unrelated to interstate operator services revenue requirements.[188]

264. NYT appears to have explained the claimed discrepancies adequately and no further action appears necessary.

H. *Ameritech Feature Group A Surrogate Usage – Illinois*

265. US Sprint challenges Ameritech's revised FGA surrogate terminating usage figures for Illinois as unreasonably high. The figure used in last year's annual access filing was 2192 minutes, while this year's figure is 5278 minutes. US Sprint traces this increase to the growth of measured suburban MTS and WATS terminating usage from 1547 minutes to 6443 minutes. Meanwhile, US Sprint states, the number of measured suburban MTS and WATS lines has decreased from 803 to 60. US Sprint notes that the methodology used by Ameritech to calculate surrogates may be unreliable with a significantly reduced sample size. US Sprint asks that the Commission order Ameritech to use the historical average terminating usage rather than its proposed Illinois terminating usage surrogate. US Sprint Petition at 14-15.

266. Ameritech responds (Ameritech Reply, App. C at 12) that its FGA surrogate for originating MOU was reduced by 67 percent, due in large part to the change in the average measured usage for suburban MTS and WATS lines. Ameritech explains that the 1987 study to develop the FGA surrogate had a 22 percent increase in lines converted to equal access over the 1986 study. As the percentage of equal access offices grows, according to Ameritech, ICs migrate to FGD for origination and continue to route terminating traffic via FGA because of its lower rates. This strategy results in an increased concentration of terminating traffic on FGA facilities, Ameritech states.

267. We have reviewed the Ameritech tariff and proposed revision, US Sprint's comments and Ameritech's reply. We find that in view of Ameritech's explanation of its surrogate calculation, no persuasive showing has been made that the proposed surrogate figures are unlawful or unreasonable, and we accordingly deny US Sprint's petition on this point.

I. *GTE's Proposed Rates for Florida*

268. ALC, AT&T, Western Union and Microtel challenge GTE's proposed rates for Florida. ALC states that the major increases GTE proposes, taken together with the discounted rates offered in GTE's proposed "Preferred Switch Access" (PSA) tariff, indicate the presence of cross-subsidization, a suspicion in which Microtel concurs. AT&T attacks GTE's Florida tariff as having assigned no costs to non-regulated activities. Western Union states that the proposed rate increase for special access in Florida is

not supported by projected cost increases in expenses and other taxes and 2.6 percent in net investment. Microtel notes GTE's significant increases, states that they contradict the trends observed as well as the rate proposals of other LECs in Florida, and says that these increases are unexplained and unjustified.

269. GTE responds generally that its proposed 1988 switched access rates are not affected by its PSA proposal, calling Microtel's assertions unsubstantiated. GTE references its PSA tariff support material, which it says shows that customers not choosing to subscribe to PSA will not be harmed, and that PSA will not be cross-subsidized by other switched access customers.[189] Further, GTE states that it has provided adequate justification for the increases in 1988 switched access rates.

270. While not replying directly to the oppositions of ALC with regard to its Florida rates, to AT&T with regard to its failure to assign any expenses to non-regulated activities,[190] nor to Microtel's arguments regarding observed trends and other LECs' Florida rate proposals, GTE defends its special access rate development as correct. GTE notes, in response to Western Union's argument, that a rate increase can result from many factors, and that the decline in voice-grade units from the 1987 filing, together with the increase in expenses and other taxes, can result in a voice-grade increase which exceeds the expense increase. GTE Reply at 32.[191] GTE also states that the Special Access revenue requirement is not a simple linear function of voice-grade units, noting that in Florida, voice-grade revenues constitute less than half of the total projected revenue from special access for the 1988 filing. *Id.* at 33.

271. We find that the questions raised by commenters here are valid ones, and that GTE's reply comments are non-responsive. We are concerned, for example, that GTE's Florida rates have increased so substantially, seemingly in contradiction of observed trends and of competing or similar carriers there. We are further concerned that GTE's Florida tariff assigns no costs to unregulated activities. We find that GTE's proposed 55.6 percent increase in expenses is inadequately justified. Finally, we are concerned that GTE has failed to respond directly or in detail to any of these questions in its reply comments. Accordingly, we will suspend GTE's proposed Florida tariff subject to further investigation.

J. ***GTE Pension Expense***

272. AT&T charges that GTE has overstated its total company pension expense by $17.2 million, resulting in its interstate revenue requirement being overstated by approximately $4.2 million.[192] AT&T observes that GTE's 1988 budget includes $45.9 million in pension expense, although GTE represented in an earlier letter that its 1987 total pension expense would be $22.1 million. Further, AT&T charges, GTE's 1987 amount for California, which GTE said would hold constant for 1988 as well, is $13.25 million, yet GTE's current revenue requirement computation includes $22.7 million for California. AT&T asserts that GTE has failed to explain how these figures were derived.

273. GTE answers (GTE Reply at 18) that its tariff transmittal was filed in accordance with SFAS No. 87 for 1988 pension expense. GTE denigrates AT&T's reliance on the letter GTE filed with the FCC regarding pension expense levels, and on a California Public Utilities Commission Supplemental Report, for the proposition that GTE's pension expenses are overstated.[193] GTE states that it expects 1988 pension expenses will be as stated in this filing, given changes in actuarial assumptions for 1988.[194]

274. Changes of this magnitude raise questions regarding the prior and present estimates which GTE has failed to address in a meaningful way. GTE is directed to specify the source of its assumptions in its direct case in the investigation we are establishing in this Order.

K. ***Northwestern Bell Tax Expense***

275. AT&T charges that Northwestern Bell has apparently overstated its interstate revenue requirements by seeking to recover gross receipts and property taxes for which it is not liable.[195] AT&T states that Northwestern Bell seeks to recover $306,000 in gross receipts tax for North Dakota, which does not assess a gross receipts tax. Similarly, says AT&T, Northwestern Bell seeks to recover $110,000 in property tax for Minnesota, although it will not be subject to the real property tax until 1989, payable in 1990. AT&T therefore asks that the Commission order Northwestern Bell to remove these expenses from its revenue requirement.

276. NWB replies that AT&T is correct in stating that North Dakota does not impose a gross receipts tax. The amount NWB has listed, $305,769, is Minnesota gross receipts tax recovery for North Dakota border service areas within the state of Minnesota. NWB Reply at 79. The $110,184 that AT&T has identified as Minnesota property tax is in fact Minnesota gross receipts tax related to equal access, NWB states. *Id.* Accordingly, NWB claims, both amounts have been correctly included in NWB's revenue requirement.

277. NWB has satisfactorily clarified its tax expense listings, and accordingly, we will deny AT&T's petition on this point.

L. ***NECA's " Future Earnings Loss " Adjustment***

278. AT&T charges that NECA has increased both switched traffic sensitive and special access rates by 3.59 percent above its initial rate calculation in order to offset alleged "future earnings losses" from "unavoidable earnings deterioration."[196] NECA compensates by using a Deterioration Rate Adjustment Factor (DRAF) of 3.59 percent, which AT&T states is unauthorized by the Commission, unjustified by any showings of underearnings, and merely a reflection of NECA's need to modify its two-year-revision policy or propose mid-course adjustments.

279. NECA responds that neither of AT&T's proposed solutions is practicable. First, NECA cannot minimize its members' retroactive adjustments because they have no current investment, expense or cost study data available to report to the NECA TS pool. In order to provide such data, these small carriers would have to perform current or at least quarterly cost study updates. NECA states that it is not clear that the additional expense incurred in providing such studies would be justified for these companies. Further, NECA states, these small companies require the assistance of outside cost study consultants and accountants to prepare such studies, and there is a shortage of consultants and accountants now. Therefore, it is doubtful that data could be made available. NECA concludes that imposition of a shorter true-up period for small carriers would result in substantial harm to these carriers, with little or no corresponding benefit.

280. NECA also rejects AT&T's suggestion that NECA make mid-course adjustments, since such adjustments are relevant only to the current tariff period. The losses that concern NECA will occur after the annual tariff period is over. NECA therefore justifies its DRAF as the best solution to otherwise unavoidable losses.

281. We find that in view of the circumstances of NECA pool members and the Commission's often-stated desire to accommodate small carriers by allowing them flexibility in meeting Commission requirements, no significant harm will be done by, and significant benefit will be derived from, our allowing NECA's proposed DRAF. Nothing that AT&T has argued persuades us that NECA's proposal is unreasonable or unlawful. Accordingly, AT&T's petition will be denied in this regard.

M. *TRP Data Flaws and Failures*

282. AT&T alleges that some of the LEC Tariff Review Plans (TRPs) omit significant data[197] or data that are required by Commission orders[198] or include data that are internally inconsistent[199] or demonstrate incorrect calculations.[200] Further, AT&T states that Pacific's paper TRP data differed from its mechanized TRP data. AT&T asks that the Commission require these carriers to correct their data.

283. Some of the LECs respond -- for example, Pacific and Contel admit the errors AT&T notes, and propose to amend their filings to correct them. All carriers having such errors will be ordered to correct them in letters or filings to be effective January 1, 1988.

N. *Accounting for Leasehold Improvements*

284. AT&T charges that Southwestern Bell has overstated its revenue requirement by about $3.4 million by expensing certain leasehold improvements that should have been capitalized and then amortized over time.[201] AT&T states that Section 32.2682(a) of the Commission's Rules requires that Leasehold Improvements, Account 2682, is to include the original cost of leasehold improvements made to telecommunications plant held under a capital or operating lease, which are subject to amortization treatment. Instead, AT&T states, Southwestern Bell has entered leasehold improvements on both its asset (capitalized) and expense accounts. The net effect, says AT&T, is that Southwestern Bell has expensed the leasehold improvements while retaining them as a capitalized asset on its balance sheet. AT&T asks that the Commission require Southwestern Bell to correct this accounting error and to adjust its revenue requirement accordingly.

285. Southwestern Bell replies that it has capitalized its leasehold improvements correctly, and that it is only AT&T's misunderstanding of Southwestern Bell's statement, in its D&J, that in addition to the capitalized amounts of leasehold improvements contained in "General Support Facilities and Telephone Plant in Service," only one year of associated amortized expense appears in the expense budget. Southwestern Bell Reply at 13-14. Southwestern Bell states that its associated depreciation reserves have been increased by a corresponding amount, and that there are no double recovery leasehold improvement expenditures. Southwestern Bell states that it has capitalized and amortized its leasehold improvements properly. *Id.*

286. Southwestern Bell's explanation of this issue appears adequate to address AT&T's contention and no revenue requirement adjustment appears necessary.

VII. SUMMARY OF ACTIONS TAKEN ON RATES

287. As our discussion *supra* indicates, our review of the record developed herein discloses numerous instances in which the LECs failed to follow our Rules properly or used improbable assumptions and predictions to develop their proposed rates. If uncorrected, these mistakes would produce excessive access rates, despite the fact that the filings overall propose access rate reductions. These excessive rates would ultimately be paid by telephone subscribers in the form of unnecessarily high long distance or private line rates.

288. The Communications Act sets out separate, alternative mechanisms to address such proposals in Sections 204(a) and 204(b), 47 U.S.C. §§ 204(a) and 204(b). Under Section 204(a) the Commission may suspend any new or revised charge in whole or in part for up to five months pending an investigation. Under Section 204(b) the Commission may allow part of a charge to go into effect based upon a written showing by the carrier and an opportunity for written comment thereon that such partial authorization is just, fair, and reasonable. Upon a similar showing, it may also allow a charge to go into effect on a temporary basis.

289. For many of the various errors and questionable calculations and estimates of TS revenue requirements and demand in individual LEC filings, Section 204(b) provides the most appropriate remedy. We have used that procedure in the past for annual access filings. The tariff filing and petition cycle provides carriers and the public with an opportunity for written comment that satisfies Section 204(b) requirements. In general, we believe it is preferable to calculate adjustments appropriate to correct errors in the LECs' rates whenever these are identifiable and allow the proposed rates to take effect to the extent that they otherwise appear justified. The specific corrections and the partial allowances of proposed rates which we have calculated are summarized and totalled in Appendices B and G.

290. It would be preferable to replicate the LECs' rate development programs to distribute these adjustments accurately to many individual rates in the LEC tariffs. However, as was the case in earlier filings, this is not possible for all elements, especially in view of the brief time available before the January 1 effective date. We have accordingly calculated revenue requirement and demand adjustments to implement the necessary corrections for the switched traffic sensitive and special access elements of certain carriers. Revenue Requirement Adjustments are listed in Appendix G. Traffic Sensitive Demand Adjustments are listed in Appendix B. Pursuant to Section 204(b) of the Act, we will authorize the rates in the listed tariffs to take effect in part, subject to these adjustments.

291. To implement these adjustments, each carrier and NECA is directed to apply rate adjustment factors (RAFs) to translate the adjustments into rate reductions. RAFs have been calculated at the level of company aggregation for which rates are proposed. RAFs should be calculated in the following manner:

(a) *Tier 1 Companies and NECA's Traffic Sensitive Pool*

(1) Appendix G, Chart A4, includes a list of Rate Adjustment Factors (RAFs) for certain Tier 1 carriers and the NECA traffic sensitive pool. Carriers must use the exact RAFs in that chart and apply the RAFs to proposed rates in exactly the manner described below.

(2) The RAFs are listed for traffic sensitive switched rates and for special access rates. The traffic sensitive RAFs must be applied to all switching and local transport rates, including equal access rates and non-recurring charges. RAFs should not be applied to the information element (including the information surcharge). Special access RAFs must be applied to all special access rates (including non-recurring charges) if these rates have not been suspended. If special access rates which are suspended by this Order are subsequently allowed to go into effect, the RAFs listed in Appendix G, Chart A4, must be applied. RAFs must be applied to all switching, local transport and special access rates, whether or not the rates were changed from those currently in effect by the October 2 filing or by subsequent filings.

(3) The RAFs must be applied to currently proposed rates, even if these rates represent reductions submitted as errata, for which special permission to file was granted, from rates proposed on October 2. If carriers have errata filings for which special permission is pending before the Commission, the carriers should anticipate favorable action by the Commission if the pending errata filings represent decreases. Assuming that the pending errata are granted, the RAFs must be applied to rates after the rates have been revised by the errata. In other words, the RAFs should be the last adjustment made to proposed rates.

(4) The traffic sensitive RAFs are listed in column D of Chart A4, Appendix G. They have been calculated so that they may be directly applied, without further modification, to the switching and local transport rates proposed by the relevant carrier in its tariff. The traffic sensitive RAFs are the product of a RAF calculated for the revenue requirement (column A) and a RAF calculated for traffic sensitive demand (column C). Column A and column C have been included merely for information purposes. Only the final traffic sensitive RAFs, in column D, should be applied to switching and local transport rates.

(5) The traffic sensitive revenue requirement RAFs are calculated as follows: Let A = row 100, column F, Chart COS-2(P)32 from the 1988 Tariff Review Plan (TRP); let B = row 100, column G, from the same chart. Let C = column 27, Chart A3, Appendix G. Then the Revenue Requirement RAF (column A of Chart A4, Appendix G) = 1 - C / (A + B).

(6) The traffic sensitive demand RAFs for the Tier 1 companies are calculated as follows: Let D = column 10, Table 1, Appendix B. Let E = column 2, Table 2, Appendix B. Then the demand RAF (column C, in Chart A4, Appendix G) = E / (D + E). For the NECA traffic sensitive pool, the demand RAF is calculated directly from Table 7, Appendix B, by use of the algorithm listed at the bottom of Table 7.

(7) The final traffic sensitive RAFs (column D in Chart A4, Appendix G) are calculated by setting them equal to Revenue Requirement RAFs (column A, Chart A4, Appendix G) x Demand RAFs (column C, Chart A4, Appendix G).

(8) The special access RAFs, displayed as column B, Chart A4, Appendix G, are calculated by determining the quotients of column 28, Chart A3, Appendix G and row 100, column K from Chart COS-2(P)32 from the 1988 TRP and subtracting the quotient from 1.00.

(b) *Tier 2 Companies*

A list of RAFs for Tier 2 companies is displayed in Tables 7 and 8 of Appendix B.

292. In the case of CCL, it is possible to compute the specific adjustment required to correct the apparent errors in development of the revenue requirement and to substitute a reasonable estimate for demand. This calculation is shown in Appendix H. This calculation is subject to an important caveat. The adjustments to the CCL revenue requirement and demand indicate that the baseline originating premium CCL rate should be zero and the baseline terminating premium rate should be no higher than 4.23 cents per minute. Because these baseline rates do not include demand response, a further reduction in the terminating rate will be required to reflect associated reductions in the interstate long distance rates of AT&T and other ICs. Pursuant to Section 204(b), we will allow baseline CCL rates at this level, subject to a further reasonable reduction to reflect demand response. We will address the demand response issue to the extent necessary following further review of the pending AT&T rate changes.

293. We wish to emphasize that neither these partial rate allowances nor the RAFs used to implement them are rate prescriptions. They represent, rather, partial authorizations of rates to the extent necessary to correct questionable or erroneous aspects of the rate development process as set out in the LEC filings. The LECs are free to propose revisions to the resultant rates at any time. Of course, such filings must be accompanied by relevant cost support information and we would expect the proposal to address fully the considerations which led us to conclude that the proposed rates are erroneous or questionable.

294. In a number of cases, LECs have identified errors in their rate development which require reductions in their rates. We have discussed a number of these cases in this Order. While carriers should request special permission to make these revisions if they have not already done so, we anticipate that such permissions will be freely granted unless the carrier's request presents additional problems. Each LEC is directed to consolidate all required and allowed changes scheduled to take effect for its tariff on January 1, 1988 into a single filing.

295. For special access, as discussed *supra*, we are investigating the proposed rates and suspending the rate increases that appear most likely to be erroneous for two months while we undertake an expedited investigation of the issue of cost-demand discrepancies.

296. We are also suspending for five months the proposed rates of Mountain Bell and Contel-Alabama, which include the retroactive recoupment of amounts claimed to represent prior underearnings. We will remove the suspension and end the investigation of these filings in the event that these carriers submit revisions, which become effective, reducing their rates by an amount equal to the proposed retroactive recoupment. These amounts should not be included in the RAFs calculated by the carriers in accordance with paragraph 291, *supra*. *See* Trans Alaska Pipeline Rate Cases, 436 U.S. 631 (1978).

297. Finally, there is a category of issues which raise significant concerns, in part because we lack sufficient information to determine whether the LECs have properly implemented our Rules using reasonable methods and assumptions. These issues include the application of Part 36 to separate Category 3 Central Office Equipment and the removal of costs associated with nonregulated activities. Because of the potential impacts of these issues and

the importance of assuring that the LECs are properly implementing the Rules, we conclude that an investigation of these issues is necessary. We will request additional information and designate issues in a separate Order.[202]

VIII. ORDERING CLAUSES

298. Accordingly, IT IS ORDERED, pursuant to Section 204(a) of the Communications Act, 47 U.S.C. § 204(a), that the special access rates filed by Ameritech (except Indiana), Bell Atlantic, New England Telephone and Telegraph Company, New York Telephone Company, US West (except Pacific Northwest Bell), the GTE Telephone Companies (California, Florida, Texas, and Washington), Cincinnati Bell, and Southern New England Telephone Company ARE SUSPENDED until March 1, 1988, two months from the present scheduled effective date.

299. IT IS FURTHER ORDERED, pursuant to Section 204(a), that the proposed rate changes of Mountain Bell and Contel - Alabama ARE SUSPENDED until June 1, 1988, five months from the present scheduled effective date unless or until revisions filed by those carriers and allowed to become effective reduce those rates by an amount reflecting the carriers' proposed retroactive recovery of earlier shortfalls, *i. e.*, $16.061 million for Mountain Bell and $550,000 for Contel - Alabama.

300. IT IS FURTHER ORDERED, pursuant to Section 204(a) of the Communications Act, 47 U.S.C. § 204(a), that an INVESTIGATION IS INSTITUTED concerning the proposed special access rates filed as part of the Annual 1988 Access Tariff filings, the proposed rates of Mountain Bell and Contel - Alabama, and the allocation of carrier costs to nonregulated activities. A Docket Number and pleading cycle for this investigation will be established by a later action.

301. IT IS FURTHER ORDERED that carriers subject to suspensions under this Order shall issue supplements no later than December 30, 1987 indicating that the proposed special access rates ARE SUSPENDED.

302. IT IS FURTHER ORDERED pursuant to Section 204(b) of the Communications Act. 47 U.S.C. § 204(b), that the rates for any carrier listed in Appendix B (Charts 7 and 8) or Appendix G ARE ALLOWED IN PART, as reduced by the Rate Adjustment Factors calculated by the carriers in accordance with paragraph 291, *supra*, or listed in Appendix B (in the case of Tier 2 carriers). Those carriers are ordered to issue supplements in compliance with this Order, employing the Rate Adjustment Factors, no later than December 30, 1987 with a scheduled effective date of January 1, 1988. Subsequent to such scheduled effective date, carriers may file revised rates directly reflecting these partial authorizations and replacing the rates based on Rate Adjustment Factors, to be effective on statutory notice.

303. IT IS FURTHER ORDERED, pursuant to Section 204(b) of the Communications Act, 47 U.S.C. § 204(b), that the originating and terminating Carrier Common Line rates filed by the National Exchange Carrier Association ARE ALLOWED IN PART, subject to the reduction calculated in this Order and a further reasonable reduction to reflect demand response.

304. IT IS FURTHER ORDERED that the National Exchange Carrier Association shall issue supplements in compliance with this Order and any subsequent applicable Order no later than December 30, 1987 with a scheduled effective date of January 1, 1988.

305. IT IS FURTHER ORDERED that Sections 61.56, 61.58. and 61.59 of the Commission's Rules, 47 C.F.R. §§ 61.56, 61.58, and 61.59, ARE WAIVED for the purpose of compliance with this Order and Special Permission No. 87-742 is assigned.

FEDERAL COMMUNICATIONS COMMISSION

Gerald Brock
Chief, Common Carrier Bureau

FOOTNOTES

[1] Pub. L. No. 99-514, 100 Stat. 2085 (Oct. 22, 1986).

[2] The term Local Switching 1 is used to designate local dial switching for services other than MTS, WATS, and services receiving access to the local switch equal to that received by MTS and WATS. Local Switching 2 designates local dial switching services for MTS, WATS, and services receiving access to the local switch equal to that provided MTS and WATS. 47 C.F.R. Section 69.107.

[3] Waivers were granted to smaller carriers to allow use of a calendar year 1986 PYCOS period.

[4] These results for one thing are not final; carriers may collect additional revenues, return booked revenues through refunds or resolution of billing disputes, or experience other adjustments. Audits or other examinations of the accounts, expenditures, and revenues might also be undertaken that could affect these results.

[5] We also do not address issues raised in the petitions regarding meet point billing. Meet point billing issues were resolved in a recent Bureau Order, Waiver of Access Billing Requirements and Investigation of Permanent Modifications, CC Docket No. 87-579, Memorandum Opinion and Order, DA 87-1858, released Dec. 22, 1987.

[6] Annual 1985 Access Tariff Filings, Order Designating Issues for Investigation, CC Docket No. 86-125, Phase I, Mimeo 3643, released Apr. 14, 1986.

[7] *April 14, 1986 Order* at para. 91.

[8] Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, as It Relates to the Treatment of Certain Individual Items of Furniture and Equipment Costing $500 or Less, CC Docket No. 87-135, 2 FCC Rcd 2788 (1987).

[9] *See also*, US West Opposition at 53.

[10] Appendices E-1 - E-16 contain a detailed discussion of the errors that AT&T believes the LECs have made. These appendices are directed to the tariffs of Ameritech, Bell Atlantic, BellSouth, Centel, Cincinnati Bell, Contel, GTE, Lincoln, Nevada Bell, NYNEX, Pacific Bell, Rochester, SNET, Southwestern Bell, United, and US West.

[11] In contrast, AT&T notes, the other BOCs have allocated between 11 percent and 57 percent of account 6623 expenses to the detariffed billing and collection rate element. Moreover, AT&T notes, Bell Atlantic last year allocated 23 percent of account 645 expenses to billing and collection. *Id.*

[12] MCI identifies Illinois Bell, NYT and BellSouth as carriers that exhibit this trend.

[13] Amendments to Section 64.702 of the Commission's Rules and Regulations, 104 FCC 2d 958 (1986).

[14] Bell Atlantic responds to MCI's argument concerning the decrease in investment and expense allocated to non-access services by stating that the Commission's revised Part 69 Rules no longer assign investment to the Billing and Collection category. Bell Atlantic asserts that these rule changes have little impact on the investment related portions of the revenue requirement for Billing and Collection, noting that most of the costs are expenses. Bell Atlantic Reply at App. A, Item 12; *accord*, US West Reply at 66. In contrast, Southwestern Bell contends that MCI's argument is based on an erroneous assumption and that there is, in fact, no decrease in its non-access services. Southwestern Bell Reply at 27.

[15] *See* Commission Requirements for Cost Support Material To Be Filed with 1988 Annual Access Tariffs, Mimeo No. 4219, released July 30, 1987, (*1988 TRP Order)* at para. 21.

[16] AT&T notes that the Measured Dial Equipment Minutes (Measured DEM) will result in lower interstate allocations than the Part 67 allocators. The Measured DEM allocator will be phased-in over five years under a formula which, for 1988, results in an allocation of 90 percent of Category 3 COE as it would have been calculated under Part 67 and 10 percent of such investment as it would be calculated under Part 36. The Part 67 weighting will be reduced in subsequent years.

[17] AT&T identifies Ameritech, US West, NET and United as the offenders.

[18] Other carriers also contend that AT&T's analysis is flawed because it is based on outdated or incomplete data. *See , e. g.*, BellSouth Reply at 23-25; Southwestern Reply at 20-22.

[19] US West makes similar arguments and also attributes part of the increase in interstate investment in Category 3 COE to growth since the data relied upon by AT&T were recorded. US West assures us that the revised separations rules will result in a lower interstate allocation of this investment in the future as the weighted DEM allocator is phased-in. US West Reply at 61-62.

[20] Once again, AT&T singles out Southwestern as an example that NET should follow for having provided data in a format which facilitates review of its separations procedures. *Id.*

[21] In a letter dated August 28, 1987, Western Union also asks the Bureau to revoke its authorization for carriers to include five-year amortizations retroactive to January 1, 1987. We deny this request.

[22] *See , e. g.*, New England and New York Telephone Companies, Mimeo No. 2636, released Feb. 20, 1985; Chesapeake and Potomac Telephone Companies, Mimeo No. 3575, released Apr. 3, 1985; Petitions for Waiver Concerning 1985 Annual Access Tariff Filings, Mimeo No. 5007, released June 7, 1985; Petitions for Recovery of Equal Access and Network Reconfiguration Costs, FCC 85-628, 50 Fed. Reg. 50910 (1985); Annual 1988 Access Tariff Filing Petitions for Waiver, DA 87-1269, released Sept. 3, 1987.

[23] MTS and WATS Market Structure, CC Docket No. 78-72, Notice of Proposed Rule Making, 2 FCC Rcd 254 (1987).

[24] MTS and WATS Market Structure, CC Docket No. 78-72, Phase I, 99 FCC 2d 708 (1984).

[25] Specifically, the Commission addressed Category 6 station equipment, described in former Sections 31.232-234 and 67.152(f) of the Rules. This investment is now described in Sections 32.2310-2362 and 36.141-142.

[26] 47 C.F.R. § 69.303.

[27] Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services, CC Docket No. 81-893, 99 FCC 2d 354 (1984).

[28] CC Docket No. 84-800, Phase I Order, released Mar. 24, 1987, at para. 34.

[29] The Bell Atlantic Telephone Companies Petition for Waiver of Sections 65.701, 65.702(b), and 65.703(a), (c), and (d) of the Commission's Rules, DA 87-1573, released Nov. 4, 1987; The Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, and Pacific Northwest Bell Telephone Company Petition for Waiver and Stay of Refund Requirements, DA 87-1661, released Nov. 20, 1987.

[30] Tax Reform Act, Pub. L. No. 99-514, 100 Stat. 2085 (Oct. 22, 1986) (TRA).

[31] Amortization of Depreciation Reserve Imbalances of Local Exchange Carriers, CC Docket 87-447, Notice of Proposed Rule Making, FCC 87-313, released Oct. 5, 1987 (*Amortization Notice).*

[32] MCI names the following carriers (proposed increases noted): New York Telephone (22.47 percent), Bell Atlantic (Delaware) (73 percent), BellSouth (Florida, 84.95 percent; Georgia, 85.28 percent; South Carolina, 64.66 percent; and Kentucky, 100 percent) US West (Idaho, 64 percent; Montana, 93 percent; Wyoming, 350 percent; Iowa, 6.19 percent) and Pacific Bell (7.70 percent). MCI Petition at 55.

[33] Bell Atlantic points out that if Delaware's 1987 tax expense had been calculated on a 12 percent rate of return rather than on the historical 4 percent rate, Line 350 for 1987 would have shown 186, and the 1988 projection of 109 would therefore have represented a decline, as is to be expected due to the TRA.

[34] US West states that its TRP shows large increases in the income deductions from the Historic to the Prospective displays, in recognition of the income adjustment deduction attributable to surplus deferred tax in the development of their Other FIT income adjustments. US West also refers to the Historic Period as having a "blended rate" of .42975, while the Prospective Period has a rate of .34.

[35] US West refers to its Exhibit VI, which compares COS-1H (31) line 500 col "E" and COS-1P (32) line 500 col "F" to yield percentage changes (reductions) of 50.7 percent for Mountain Bell, 61.6 percent for Northwestern Bell, 53.7 percent for Pacific Northwest Bell, and 54.2 percent for US West overall.

[36] Both Pacific and NYNEX respond to arguments regarding their excess deferred taxes, discussed *infra*, but do not defend their increases in line item 350, federal income tax.

[37] MCI notes that SWBT has lowered its 1988 interstate revenue requirement by 1.5 percent to reflect this flowthrough.

[38] MCI calculates the total amount due access customers as $122,158,234. MCI Petition at 26, n.30, and Ex. 3.

[39] MCI proposes a test to determine whether a LEC has flowed through the excess deferred tax savings. MCI suggests that, since the impact on FIT of a $1 flow-through of excess deferred taxes is identical to the impact of a $1 amortization of deferred investment tax credits, it could be reflected on line 420 on the TRP COS-2 forms. MCI states that this is the only correct approach, because any other approach would result in an incorrect revenue requirement. MCI states that line 420 in COS-2H (for a historical, pre-TRA period) can be compared to line 420 in COS-2P (for a prospective, post-TRA period), and that an absence of significant increase will indicate that the LEC has not flowed through this excess. (MCI assumes that amortized investment tax credits are stable).

[40] MCI suggests an adjustment factor of 0.0261, which it develops as follows: it takes the difference between the old tax rate and the new tax rate, and divides this by the product of the old tax rate and the average remaining life of investments (assumed to be ten years). MCI Reply, n. 31.

[41] The average rate assumption method spreads taxes over the life of the plant that created the deferral, according to NYNEX. NYNEX Reply at 60 n.*.

[42] NYNEX states that Section 168 of the IRC provides for the normalization method of accounting for purposes of §§ 167 and 168 of the IRC with respect to any public utility property. *Id.*

[43] The District of Columbia, Maryland, Virginia, West Virginia, Delaware and Pennsylvania.

[44] US West states that this approach is totally unacceptable, and that excess deferred tax has always been a component of Other FIT Income Adjustments and should remain so.

[45] Michigan Bell is the exception, according to Ameritech. Michigan Bell's FIT adjustment subject to separations is -$4,192,000. The interstate FIT adjustments totaled -$812,799, which was erroneously listed in Ameritech's access tariff filing as $8,219,000. Because this latter figure is larger than the total interstate FIT adjustments, the interstate FIT adjustments used in developing Michigan Bell's rates were overstated, resulting in an understatement of rates.

[46] Ameritech includes a chart showing the amounts and percentages involved; the total amount for the Ameritech companies is $5,218,500.

[47] Pacific notes that MCI has listed LECs that MCI has identified as having failed to flow back these funds, and that Pacific is not on the list. Pacific Reply at 14 (citing MCI Petition at 26). Pacific states that, while MCI challenges nearly all LECs on this point, it is clear that MCI recognizes the propriety of Pacific's deferred tax treatment. *Id.*

[48] SNET Reply at 23 (citing SNET annual access tariff filing Vol. 3, App. B, Tab 2, Workpaper S-11, line 25).

[49] Generally a LEC will enter federal income tax expenses in its books of account, and thus recover from ratepayers, based upon straight line or equal life group depreciation. However, the same LEC will likely use some method of accelerated depreciation (resulting in lower actual tax liability during the early years of an asset's life) in its tax returns. "Deferred taxes" represent the difference between income taxes computed using these different depreciation methods. They are, in effect, interest-free loans to the LECs from their ratepayers, which are deducted from plant investment in calculating the rate base and are amortized over the lives of the assets with which they are associated.

[50] "Report on Telephone Industry Depreciation, Tax and Capital/Expense Policy" (Staff Report) at 17. *See* News Release, FCC Releases Report on Depreciation, Tax Reform, and Capital/Expense Changes, Mimeo No. 2840, Apr. 17, 1987.

[51] TRA § 201. The new ACRS tends to extend the tax lives of most assets, and thus to slow down the accrual of depreciation, but to accelerate the depreciation rate for computer-based central office equipment, which represents a significant portion of telecommunications investment.

[52] These expenses, which were previously directly deductible, must now be capitalized. At the same time, the new Part 32 requires LECs to implement an opposite transfer of these costs, from capital to expense, on their books of account. Since LECs will thus have reduced deductions and increased operating revenues, they will have increased taxable income.

[53] This explanation is given by, among others, Bell Atlantic (Reply App. A, item 20), US West (Reply at 81) and BellSouth (Reply at 36).

[54] According to MCI's calculations, both BellSouth-Kentucky and US West-Montana show increases of 100 percent or more; four additional carriers show increases of over 70 percent. We find that, with the information before us, we are unable to evaluate the reasonableness of these proposed increases. We will accordingly order carriers proposing increases in their federal income tax amounts to offer detailed support for these expenses.

[55] The amount in question has been estimated at from $6.6 billion to over $19 billion. The carriers estimate the total at $6.6 billion; Rep. Dorgan, who is sponsoring a bill to repeal Section 203(e) and allow for immediate flow-back to the customer, estimates $15 billion; NARUC estimates over $19 billion.

[56] New York, for example, has proposed such a flow-back methodology.

[57] NECA's Proposed Revisions to the Average Schedule for 1988, DA 87-1822, released December 21, 1987.

[58] NECA estimated the revenue requirement impact of the proposed revisions by comparing estimated January 1987 common line settlements to estimated January 1988 settlements of $21,426,133. *See* NECA's Modification of Average Schedules, filed June 30, 1987, at 35.

[59] NECA estimated that traffic sensitive settlements would increase from $10,634,308 in January 1987 to $11,558,651 in January 1988. *Id.*

[60] These amounts were calculated, respectively by multiplying the January 1987 - January 1988 monthly increase by 12 to estimate the annual difference in settlement amounts. This calculation thus does not reflect the 2.7 percent rate of growth in access lines or the 10 percent average annual growth in access minutes that NECA used to project demand.

[61] For example, New England Telephone (NET) is proposing a more than 40 percent increase in its voice grade channel termination rate, Bell Atlantic proposes a 19 percent increase in its rate for a 4-wire voice grade channel termination, and Ameritech proposes a 33 percent increase for television service in Illinois.

[62] Western Union takes particular note that Bell Atlantic's proposed rates yield an increase of 18 percent in monthly recurring charges for Western Union. Western Union Petition at 4.

[63] *See See also* Western Union Petition at 15.

[64] *See , e. g.*, Western Union Petition at 50.

[65] Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Notice of Proposed Rule Making, 2 FCC Rcd 5208 (1987).

[66] We have noted claims by some petitioners that rate increases should be suspended because a correct implementation of new Commission rules would allocate a larger proportion of interstate costs to special access than the Commission expected. Carriers have correctly observed that this would not be a valid basis for investigating or suspending a tariff. Moreover, we have already denied a separate motion to stay the effectiveness of the new Part 69 rules.

[67] Locate argues in its petition that both Bell Atlantic and Southwestern Bell should be required to file generic rate schedules for DS3 service which is presently offered on an Individual Case Basis (ICB). Locate asserts that the service is not cost justified and that the ICB pricing permits rate discrimination. Locate Petition at 1. The LECs respond that each DS3 service requires specialized design and routing in response to the customer's unique requirements causing the costs and rates for DS3 service to reasonably differ from one installation to another. Bell Atlantic Reply at App. A, Item 32; Southwestern Bell Reply at 57-58. Southwestern Bell also suggests that an average rate schedule would impair its ability to compete with competitive alternatives to DS3 service such as microwave and fiber. We will allow

the carriers to continue to offer DS3 service on an ICB basis at this time. We have recently requested that Southwestern Bell provide us with data regarding its use of ICB pricing for certain high capacity special access services. *See* Letter from Chief, Tariff Division, to Martin E. Grambow, Executive Director -- Federal Regulatory, Dec. 3, 1987. We will examine this question further in that forum.

[68] Western Union's analysis suggests, however, that BellSouth may not have made these adjustments for North Carolina, South Carolina and Louisiana. *See* Western Union Petition at 39, 44.

[69] Western Union's analysis suggests that the following LECs have not adjusted their cost allocators to appropriately reflect changes in forecast demand and may be relying on historical separations ratios: Bell Atlantic, New England Telephone, Mountain States, Northwestern Bell, Illinois Bell, Michigan Bell, BellSouth for North Carolina, South Carolina and Louisiana, Cincinnati Bell and Nevada Bell.

[70] Under Part 67 this COE was separated on the basis of conversation-minute miles. Under Part 36, this COE will be assigned to the interstate jurisdiction if it relates to an interstate private line, to the state jurisdiction if it relates to an intrastate private line, and will be allocated between interstate and state jurisdictions based on conversation minutes if it relates to message circuits.

[71] AT&T refers specifically to the Description and Justification (D&J) to Pacific Bell's tariff, Vol. 2.2, Work Paper 3, § 2.3, which says:

> We are still in the process of validating our program logic of how we are picking up equipment from our circuit equipment inventory. The above counts are subject to change as this validation progresses.

AT&T Petition at App. D-12, p.4.

[72] The LECs cite Study Nos. 62 and 77.

[73] The record here indicates that Southwestern Bell, Pacific Bell and BellSouth have adjusted their historical separations cost allocations to conform with forecast demand for the test year. Although Western Union's studies raise questions as to whether BellSouth has made these adjustments in North Carolina, South Carolina, Louisiana and possibly Georgia, we have decided that suspension of the proposed rate increase in those states is not warranted. We will require all of the BOCs to submit more information in our investigation, however, in order to ascertain with more certainty that the cost and demand projections are consistent. Even if these carriers have used consistent projections, the demand projections may be inaccurate.

[74] MTS and WATS Market Structure, CC Docket No. 78-72, Phase I, Third Report and Order, FCC 82-579, 93 FCC 2d 241 (1983), at para. 279.

[75] *See* Investigation of Special Access Tariffs of Local Exchange Carriers, CC Docket No. 85-166, Mimeo No. 4726, released May 24, 1985; Mimeo No. 2057, released Jan. 17, 1986.

[76] *See also* Pacific Bell Opposition at 36.

[77] Mid-Atlantic suggests that the fact that Bell Atlantic's special access NRCs are higher than the NRC for a comparable switched service indicates that the special access NRCs are excessive since switched service requires more installation work activities.

[78] Pacific Bell notes that the proposed increases are the first of five planned NRC increases over a two-year period intended to bring its NRCs to full cost recovery. It also states that it will lower its recurring charges as it increases its NRCs. Pacific Bell Opposition at 37.

[79] Investigation of Interstate Access Tariff Non-Recurring Charges, CC Docket No. 85-166, Phase I, Part 3, 2 FCC Rcd 3498, 3501 (*NRC Order*).

[80] Baseline demand is a forecast of demand that ignores the effect of demand stimulation due to changes in price or relationships among prices that would result from the computation of new prices resulting from the baseline forecast or from other price changes scheduled to take place in the future. Thus, baseline 1988 CCL demand is an estimate of demand prior to the impact of any price changes by American Telephone and Telegraph Company (AT&T) or other interexchange carriers (ICs) in 1988. Demand stimulation due to such changes will be added to the baseline in association with a determination of AT&T's price changes for 1988.

[81] The PYCOS period, which is the period for which carriers must file historical cost support in compliance with Section 61.38 of the Rules, 47 C.F.R., Section 61.38, is July 1, 1986 - June 30, 1987. NECA's October 2, 1987 view of PYCOS CCL MOU is 198,695 million MOU. NECA is continually updating its views of past CCL MOU usage, as part of its common line pool management responsibilities NECA's view of PYCOS CCL MOU has increased since October 2, 1987. We discuss the implications of this change, below.

[82] NECA Description and Justification (D&J), Exhibit 1-4-1.

[83] NECA Reply at 2.

[84] AT&T Rebuttal, Appendix B-2, Figure 5; *see also id* Appendix B-7 at 2. *See* also Chart 1 in Appendix A.

[85] These services include Pro II, Pro III and 800 ReadyLine. AT&T Petition at 13-14. AT&T states that the additional MOU attributable to the new IC services will consist exclusively of originating premium MOU since the services are cross-elastic with WATS and WATS-like closed-end services only. *Id.*, Appendix B-2 at 6.

[86] AT&T Rebuttal, Appendix B-2, Figure 5.

[87] A confidence interval is a measure of possible error surrounding the mean forecast of an econometric model, assuming that the model is correctly specified. AT&T has constructed a 90 percent one-sided (lower bound) confidence interval. That interval is 2,859 million MOU. AT&T Rebuttal, Appendix B-7 at 8. We accept this interval as an appropriate downward adjustment to the Revised Model's mean forecast of 236,657 million MOU. Therefore, the lower bound of the model is 233,798 million MOU.

[88] *See* NECA Letter to the Tariff Division, Common Carrier Bureau, of Dec. 15, 1987. *See* also AT&T Communications Revisions to Tariff F.C.C. No. 2 (800 ReadyLine Service), Tr. Nos. 735 & 781, Memorandum Opinion and Order, DA 87-1286, released Oct. 2, 1987, at paras. 32-34.

[89] The amounts in this table are based on application of NECA's proposed originating/terminating and premium/non-premiumratios to total MOU of 233,798 million, subtracting 2,123 million premium terminating MOU and adding 2,123 million premium originating MOU.

[90] AT&T Petition, Appendix B-2.

[91] *Id.*, Appendix B-1 at 2 and Appendix B-2 at 3.

[92] *Id.*, Appendix B-2 at 3-5 and Figure 1.

[93] *See* Annual 1987 Access Tariff Filings, 2 FCC Rcd 866 (1986) (*December 24, 1986 Order*), Appendix B, Chart D.

[94] AT&T Petition, Appendix B-7 and B-8.

[95] *Id.*, Appendix B-2 at 6. *But see id.*, Appendix B-7 at 20.

[96] *Id.*, Appendix B-2 at 7-9.

[97] *Id.*, Appendix B-2 at 8.

[98] *Id.*, Appendix B-3.

[99] NECA Reply at 4; Ameritech Reply at 57.

[100] Ameritech Reply at 56-57.

[101] NECA Reply at 12.

[102] Ameritech Reply at 62.

[103] NECA Reply at 16.

[104] *Id.* at 16; NYNEX Reply at 19.

[105] NECA Reply at 16; NYNEX Reply at 19.

[106] Ameritech Reply at 54; NYNEX Reply at 18.

[107] Ameritech Reply at 44-45, 55.

[108] *Id.* at 42; NYNEX Reply at 22.

[109] Ameritech Reply at 51-54.

[110] NECA Reply at 19-20.

[111] AT&T Rebuttal, Appendix B-2 at 2.

[112] *Id.*, at 5, Appendix B-2 at 6.

[113] *Id.*, Appendix B-10 at 27-28.

[114] Id., Appendix B-2 at 2-3, Appendix B-10 at 11-13.

[115] *Id.*, Appendix B-10 at 1-3, Appendix B-12.

[116] *Id.*, Appendix B-7.

[117] *Id.*, Appendix B-7 at 2.

[118] *Id.*, Appendix B-2, Figure 5.

[119] *Id.*, Appendix B-7 at 2-3.

[120] *Id.*, Appendix B-7 at 4.

[121] *Id.*, Appendix B-7 at 8.

[122] *Id.* at 8-9 and Appendix B-10 at 4.

[123] *Id.*, Appendix B-2 at 7, Appendix B-7 at 6, and Appendix B-10 at 6-7, 11.

[124] *Id.*, Appendix B-10 at 17-18.

[125] *Id.*, Appendix B-2 at 6 & Figures 6 and 7, Appendix B-10 at 13-14.

[126] *Id.*, Appendix B-10 at 13. Another revised supplemental analysis yields a forecast of 243,606 million MOU.

[127] These data are derived from the 1988 TRPs for Tier 1 companies, Chart DMD-1. Total CCL MOU are adjusted by the ratio of traffic sensitive to common line MOU for June 1986 (1.1791) and for July 1986 - June 1987 (1.1480) in order to maintain comparability with pre-WATS direct assignment CCL MOU. Due to the possibility that the TRP data for June 1986 are defective, the growth rate for July 1985 - June 1986 over the prior period may be slightly overstated and the growth rate for July 1986 - June 1987 over the prior period may be slightly understated.

[128] This amount is derived from data accompanying NECA's Letter to the Secretary, Federal Communications Commission, Dec. 14, 1987. It is slightly higher than NECA's earlier view of 198,695 million MOU in NECA D&J, Exhibit 1-3-5.

[129] *See* Letter from Chairman, Federal Communications Commission, to Chairman, Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, U.S. House of Representatives, May 15, 1987.

[130] Since this section addresses the issue of baseline demand for 1988, *i. e*, demand prior to stimulation for 1988 price reductions, assumption of zero price reduction in 1988 is appropriate.

[131] *See* , *e. g.*, Ameritech Reply at 57.

[132] *See* New England Telephone Company Cost Support, Vol. 4 at 3-27 and Reply at 13. *See also* AT&T Rebuttal, Appendix B-10 at 27-28.

[133] *December 24, 1986 Order*, Appendix B. We also note that New England Telephone Company and Centel have erroneously reduced their forecasts to account for supposed below-trend stimulation from lessening IC price reductions. *See* AT&T Petition, Appendix B-4 at 3-4. NECA's advice to carriers to reduce trend forecasts to account for supposed de-stimulation is also erroneous.

[134] We point out that the estimates of closed-end WATS MOU in the TRP data is fatally flawed. Inspection of Attachment E to Appendix A demonstrates unlikely swings in the time series of traffic sensitive to common line ratios and, in some cases, paradoxical results (in which traffic sensitive demand is measured to be lower than common line demand). In Commission Requirements for Cost Support Material To Be Filed with 1988 Annual Access Tariffs, Mimeo No. 4219, released July 30, 1987 (*1988 TRP Order*), we directed exchange carriers to remove out-of-period effects from their demand data for the purpose of avoiding the problem which has, in fact, occurred. We are disturbed at the poor quality of the traffic sensitive data provided by most of the exchange carriers.

[135] *See* the Traffic Sensitive Demand Analysis Appendix, below, for a discussion of the usefulness of the Revised Model for forecasting disaggregate traffic sensitive demand.

[136] See AT&T Rebuttal, Appendix B-10 at 7.

[137] December 24, 1986 Order, 2 FCC Rcd at 876.

[138] *See* AT&T Rebuttal, Appendix B-3 at 1-2.

[139] AT&T Petition at 15-21 & Appendix B-2; MCI Petition at 37-49.

[140] *See* the preceding section (Carrier Common Line Demand) for a discussion of these models.

[141] AT&T Petition at Appendix B-3.

[142] As an increment to the exchange carriers' 1987 CCL forecast, AT&T adds an estimate of 1987 demand stimulation since the exchange carriers' CCL forecasts were baseline forecasts.

[143] These companies are New York Telephone Co., BellSouth, Ameritech, General Telephone and Electronics Co. (GTE), Cincinnati Bell and Rochester Telephone Co.

[144] AT&T Petition, Appendix B-2 at 13-15 & Figures 18 & 19.

[145] NYNEX Reply at 24-25.

[146] *Id.* at 7-8.

[147] *Id.* at 21.

[148] Ameritech Reply at 47-49.

[149] Contel Reply at 26-27.

[150] GTE Reply at 26-27.

[151] US West Reply at 14-15.

[152] NYNEX Reply at 26.

[153] *Id.* at 26-27.

[154] BellSouth at 56-57; NYNEX Reply at 27.

[155] Of the 22 Tier 2A companies that were criticized by AT&T for unreasonably low demand forecasts, only Bay Springs Telephone Company and Elkhart Telephone Company filed replies that addressed AT&T's criticisms of their TS MOU forecasts.

[156] These operating territories are Iowa, Kansas and Nebraska.

[157] Contel Reply at 29.

[158] AT&T Rebuttal, Appendix B-10 at 6-10.

[159] *Id.*, Appendix B-10 at 9-10.

[160] *Id.* at 13.

[161] Compare these forecasts for Pacific Bell and Northwestern Bell in Table 6 in Appendix B.

[162] *See* the preceding section for a discussion of the problems relating to TS MOU data. CCL revenue data, from which CCL MOU data can be extracted, are provided on a monthly basis to NECA by each Tier 1 exchange carrier. Since CCL revenue data are used for common line earning settlements, such data are closely audited by each Tier 1 company and by NECA. Further,

adjustments are made to the CCL revenue data in order that the CCL revenue accurately reflect actual usage of the network on a monthly basis. Hence, CCL MOU actuals constitute the most reliable measure of monthly access demand.

[163] *See* Letter from AT&T to Chief, Tariff Division, Dec. 9, 1987. The CCL MOU data were extracted from data contained in the attachment to NECA's Letter of December 14, 1987 to the Secretary of the Federal Communications Commission.

[164] AT&T informed us that it used its own estimates of demand stimulation for 1987 as an adjustment to the carriers' forecasts. AT&T's estimate of stimulation in 1987 is substantially higher than the view which NECA proposed and which currently underlies effective CCL rates. Hence, the exchange carriers' forecasts have been arguably inflated by AT&T's adjustment.

[165] The likelihood of underforecasting is directly related to the percentage of a company's adjusted CCL MOU forecast that is comprised by the eight months of CCL MOU actuals. Hence, the higher the percentage, the greater the probability of underforecasting.

[166] In order to determine a monthly time series of TS MOU data, historical monthly CCL MOU data are adjusted by each company's average PYCOS TS/CL ratio. Use of a time series of TS/CL ratios was not possible because the quarterly ratios were defective. *See* the preceding section for a discussion of problems concerning the quarterly TS MOU data from which the quarterly TS/CL ratios were derived.

[167] The total TS MOU adjustments are 3,295 million MOU. The aggregate difference between the carriers' TS MOU forecasts and the trend forecasts is 6,169 million MOU. *See* Table 5 in Appendix B. The aggregate difference between the carrier's forecasts and the Revised Model's forecasts is 9,154 million MOU. Compare Table 5, column A and Table 6, column A, in Appendix B.

[168] AT&T Petition, Appendix B-6.

[169] *See* the 1988 TRP Tier 1 Summary Volume (Roll-Up), Nov. 12, 1987, Chart DMD-1 at 6.

[170] Amendment of Part 64 of the Commission's Rules Relating to Private Networks and Private Line Users of the Local Exchange, CC Docket No. 87-530, Notice of Proposed Rule Making, FCC 87-363, released Dec. 18, 1987.

[171] NECA reports July 1986 actual surcharge revenues of $12,240,679, or an annualized total of about $146.9 million. It reports July 1987 revenues of $9,454,666, an annualized total of about $113.5 million.

[172] The PYCOS surcharge revenues totalled $133,258,000. An annualized projected decline of 22.7 percent over an eighteen month period would be 22.7 percent x 1.5 or 34.05 percent. A reduction by this amount would result in revenues of $87.884 million ($133.258 million x (1 - 0.3405)).

[173] *See MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72 and 80-286, Recommended Decision, FCC 87J-1, released Mar. 31, 1987, Report and Order, 2 FCC Rcd 2953 (1987). *See also WATS - Related and Other Amendments of Part 69 of the Commission's Rules*, CC Docket No. 86-1, FCC 86-115, released Mar. 21, 1986.

[174] *See generally*, LEC October 2, 1987 Access Tariff Support, Volumes 2-1 and 2-2, and Tariff Review Plans.

[175] AT&T calculates the revenue requirement overstatements at $15,073,153 for GTE, $2,659,290 for Contel, and $433,658 for Nevada Bell.

[176] Contel states that most of its expenses attributable to interstate access services are payroll and payroll-related.

[177] Contel makes other arguments in support of its use of the 45-day net lag, but those arguments are neither persuasive nor germane.

[178] Amendment of Part 65 of the Commission's Rules To Prescribe Components of the Rate Base and Net Income of Dominant Carriers, Report and Order, CC Docket No. 86-497, adopted Dec. 17, 1987.

[179] MCI alleges that NYT either miscalculated the Net Rate Base to be divided by the Net Return or vice versa, or totally contrived the numbers presented as historical data (actual revenues, expenses and taxes) in order to arrive at the allowed 12.00 percent rate of return.

[180] NYT Tariff F.C.C. No. 41, Vol. 2-2, Sec. 4, p. 5-2, workpaper 4.1, line a6H; Vol. 2-2, p. 5-3, workpaper 4.1.1.; Vol. 2-2, Sec. 3, p. 3-15, Account 6110; Vol. 2-3, Account 6110.

[181] New York Telephone D&J, Vol. 2-1, p. 4-10.

[182] US Sprint notes that NYT's total operator services revenue requirement for 1988 declined substantially despite an increase in the number of minutes assessed this rate.

[183] US Sprint notes that while NYT's demand forecast is 15.350 billion minutes compared to NET's 10.145 billion minutes, NYT's operator services revenue requirement is 9.6 percent lower than NET's.

[184] AT&T also questions NYT's decrease in the "other interstate" revenue requirement in view of NYT's projected $65 million increase in total company operator salaries and wages and $7.8 million increase in the traffic expense allocated to interstate access services.

[185] NYT states that Sprint combined the costs associated with NYT's provision of operator services for corridor and interstate intraLATA traffic with the 0- pass-through costs.

[186] NYT notes that it has a much higher total minutes of use for interexchange carriers offering operator services than has NET. The unit rate is thus significantly lower.

[187] NYT also notes that the $65 million increase in the NYT Total Company budget for traffic-related expense associated with intraLATA operator services is more than offset by a decrease in contract billing, which in most part is also related to the transfer of the operators to NYT. Thus, says NYT, the subject-to-separations budget amount contains none of the increase in operator service expense, and none of it was assigned to interstate.

[188] NYT states that the subject-to-separations budget amount contains none of the increase in operator service expense and none of it was assigned to interstate.

[189] Stating that Microtel's comments on PSA are misplaced in this proceeding, GTE also adverts to the anticipated "infinitesimal" extent of PSA subscribership, should PSA be approved, as discrediting Microtel's claims of possible cross-subsidy.

[190] GTE states generally, GTE Reply at 17, that it has adhered to the spirit and intent of the cost allocation process adopted in the Commission's Joint Cost Order, although it is not required to implement these procedures until after the Cost Allocation Manual is approved. It states that it has used guidelines for allocation procedures which adhere to the Commission requirements.

[191] GTE also notes, *see* GTE Reply at 33, that net investment increased 28.5 percent, an increase fully justified by the change from miles to terminations in the allocation of Cateogry 4.23. Total Plant in Service increased 21.56 percent, and Net Book Costs increased 28.995 percent, according to GTE, also due to this change. GTE states that the 55.6 percent increase in expenses results from Part 69 allocation of General Support Facilities.

[192] GTE Tariff Support, Vol. 2.

[193] GTE states that the letter contained its best actuarial estimate at the time for 1987 expenses only, and not for 1988 expenses. The California supplemental report, according to GTE, attempted to use the 1987 pension expense level as a surrogate for 1988 pension expenses, but this is still an open issue.

[194] GTE does not specify the source of its actuarial assumptions, and does not describe the changes in these assumptions.

[195] Northwestern Bell Tariff Support, Vol. 2-3.

[196] AT&T Petition App. D-8 (citing NECA D&J, vol. 1, Sec. 4, p. 1-4-8; "Rate Development," Vol. 7, Sec. 2, p. 7-2-10; Vol. 7, Sec. 1, p. 2-1-1). AT&T states that NECA claims that these losses are attributable to NECA's rules permitting member carriers to revise their final cost studies (upon which pool settlements are based) for up to two years after the settlements are paid, and to receive additional compensation based upon these revisions.

[197] AT&T cites SWB for providing data fields populated with "-99999" instead of the prescribed numeric value. AT&T also notes the existence of irregularities between TRP and ACAS or ACAS-like date, for example in COS-1 of Contel of Virginia. *See* AT&T Petition at App. D11-3, Att. A.

[198] AT&T states that SWB has failed to provide COS data aggregated by its four-state service tariff filing level.

[199] AT&T lists more than a score of carriers whose data were allegedly internally inconsistent. *See* AT&T Petition at App. D11-3, Att. B.

[200] AT&T charges Illinois Bell, New England Telephone, New York Telephone, and Michigan Bell with miscalculation. *See* AT&T Petition at App. D11-3, Att. C.

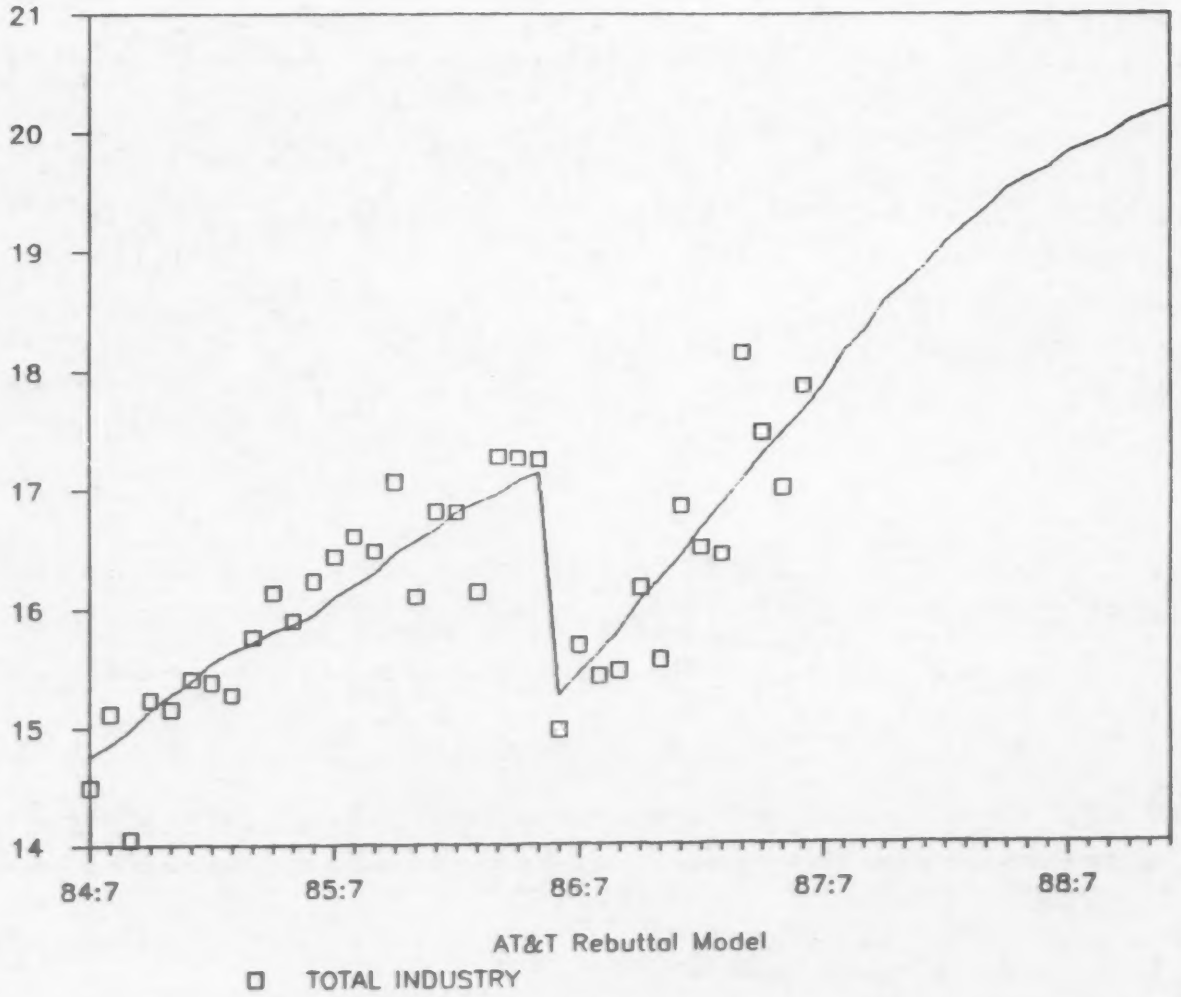
[201] Southwestern Bell D&J Vol. 2-2, Sec. 3-4, Work Paper 3.4.

[202] We will also request New England Telephone to provide more extensive information regarding their development of separations ratios and amounts.

MONTHLY SIMULATION OF TOTAL INDUSTRY
CCL MOU, FROM AT&T's REVISED MODEL

DATE	CCLMOU
84:7	14,748,085
84:8	14,858,092
84:9	14,979,536
84:10	15,149,563
84:11	15,267,952
84:12	15,385,697
85:1	15,546,041
85:2	15,639,447
85:3	15,707,288
85:4	15,807,693
85:5	15,860,123
85:6	15,938,704
85:7	16,084,036
85:8	16,189,264
85:9	16,296,326
85:10	16,457,939
85:11	16,564,603
85:12	16,663,695
86:1	16,806,705
86:2	16,887,068
86:3	16,960,147
86:4	17,074,127
86:5	17,141,192
86:6	15,266,760
86:7	15,456,127
86:8	15,625,079
86:9	15,814,851
86:10	16,061,613
86:11	16,252,901
86:12	16,433,231
87:1	16,679,399
87:2	16,881,659
87:3	17,082,495
87:4	17,301,296
87:5	17,477,216
87:6	17,658,030
87:7	17,872,901
87:8	18,151,051
87:9	18,329,503
87:10	18,583,187
87:11	18,724,533
87:12	18,875,216
88:1	19,074,424
88:2	19,222,867
88:3	19,356,366
88:4	19,529,324
88:5	19,611,529
88:6	19,691,433
88:7	19,828,021
88:8	19,899,849
88:9	19,969,414
88:10	20,096,445
88:11	20,157,763
88:12	20,219,544

AT&T Revised Model of Common Line MOU



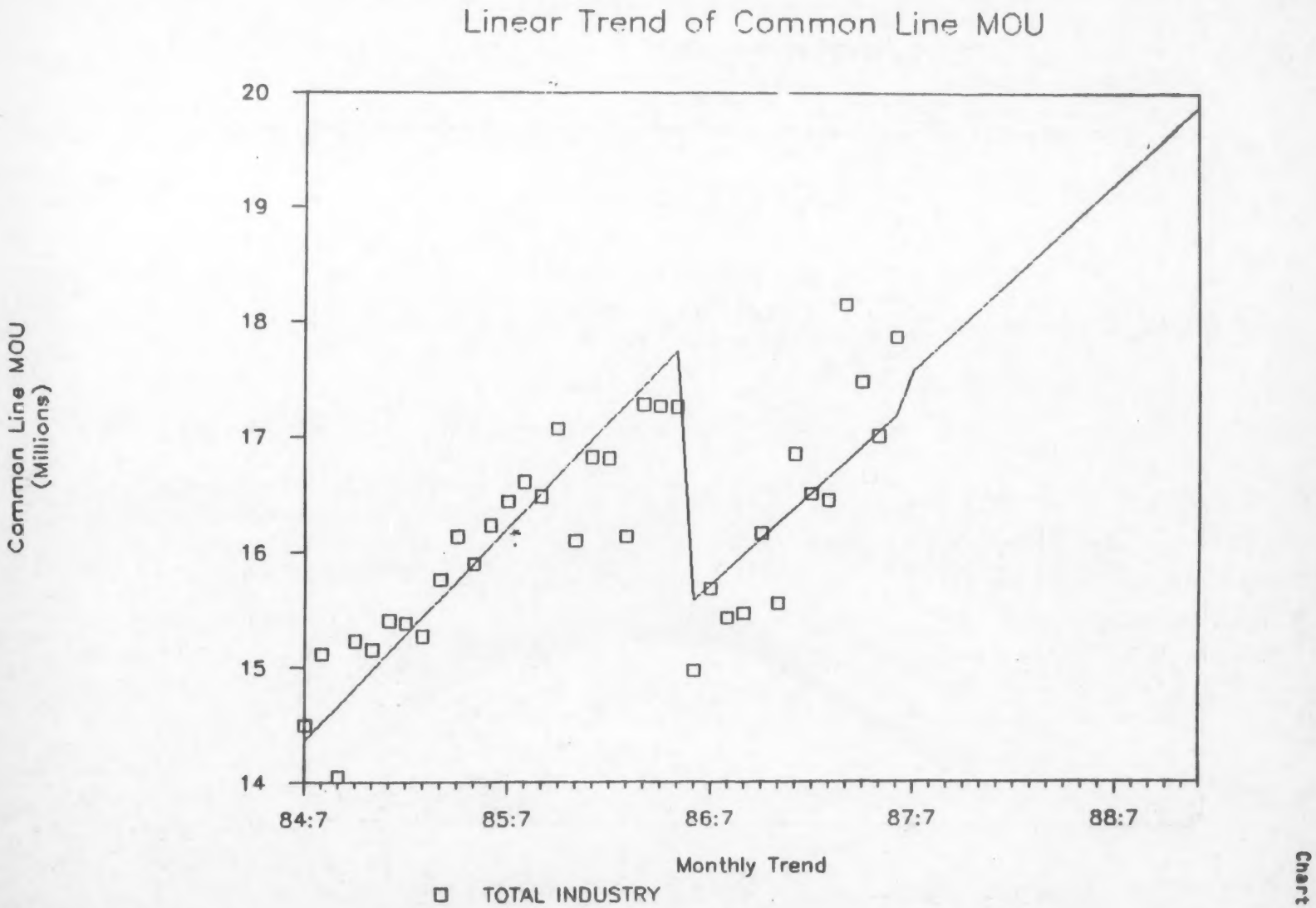

Linear Trend of Common Line MOU
Common Line MOU
(Millions)
20
19
18
17
16
15
14
84:7
85:7
86:7
87:7
88:7
Monthly Trend
TOTAL INDUSTRY

Chart 2

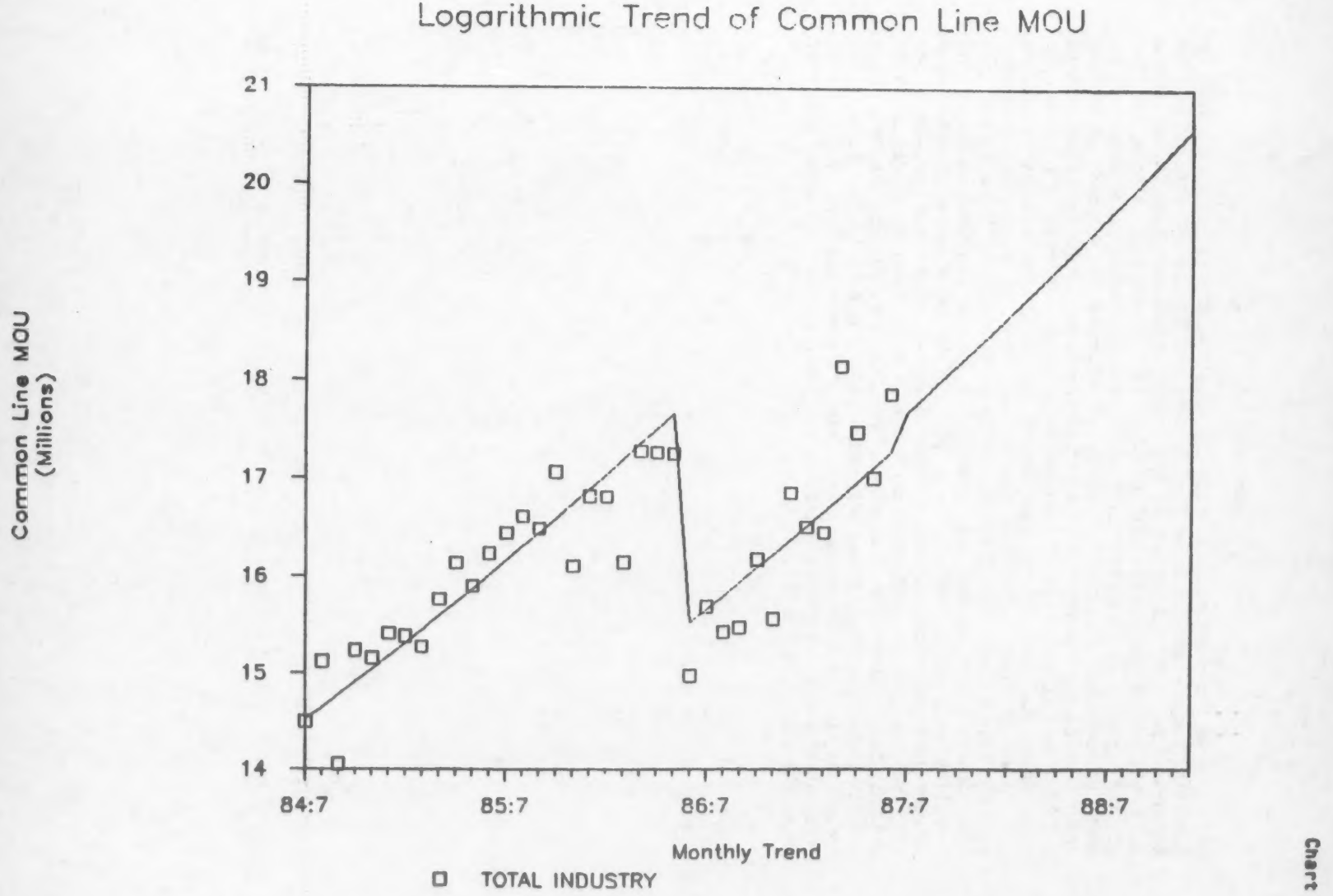

Logarithmic Trend of Common Line MOU
Common Line MOU (Millions)
21
20
19
18
17
16
15
14
84:7
85:7
86:7
87:7
88:7
Monthly Trend
TOTAL INDUSTRY

Chart 3

Attachment A

1. We have estimated a trendline model for traffic sensitive MOUs by operating company and for Total Tier I companies for the period July 1984 through June 1987. A portion of the growth in the trendline is due to the rate cuts by AT&T of January 1987 and July 1987. We calculate the portion of the growth in the trendline which is due to these price cuts. To do this, we construct a theoretical demand series based on assumed underlying growth rates and the effects of accepted short- and long- term elasticities (-0.47 and -0.68, respectively) on the price cuts. We then fit a simple time trend to the theoretical demand series and compute the annualized growth rate for 1988 trendline demand over the PYCOS period trendline demand. Since the last price change occurred after the PYCOS period, the trendline will not reflect any growth due to that price change. The trendline will also reflect only part of the stimulation impact of the January 1987 price change. The difference between these two growth rates will be the out-of-trend stimulation due to the price cuts of January 1987 and July 1987. Chart 1 provides those results for several assumed base demand growth rates. Column (e), which gives the out-of-trend stimulation shows that, whatever we assume base demand growth to be, out-of-trend stimulation will still be positive for 1988, due to the lagged effect of price changes in 1986 and 1987.

Chart 1

Base Demand Growth (a)	Theoretical Demand Growth (b)	Trendline Demand Growth (c)	Theoretical Demand 1988, Over Trendline PYCOS (d)	Out of Trend Stimulation (d) - (c) (e)
0	5.8721	5.2247	6.2438	1.0191
2	7.5612	6.7832	7.9475	1.1643
4	9.2653	8.2530	9.6737	1.4207
6	10.9835	9.6413	11.4208	1.7795
8	12.7146	10.9547	13.1876	2.2329
10	14.4579	12.1990	14.9727	2.7737
12	16.2125	13.3793	16.7749	3.3956
14	17.9776	14.5004	18.5932	4.0928

Attachment B

1. Some commenters claim that AT&T should revise its forecasts of certain economic variables due to the effect of the stock market"crash" of October 19, 1987. They claim that AT&T's forecast growth rate for disposable personal income was too high by 1.0% and the inflation growth rate was too high by 0.5%. Making these adjustments will lower the growth rate of real per capita disposable income by (1-.99/.995)%, or 0.5%, and raise the real price of telephone service by (1/.995 - 1)% or 0.5%. When these changes were made to the national models estimated by this Bureau, the greatest effect was a lowering of the forecast amount by about 0.8%. Since the elasticities of price and income are lower in the pooled models, it seers unlikely that these changes would make more than 0.8% difference in the forecast from the pooled models.

Attachment C

1. In its rebuttal filing, AT&T modelled the natural logarithm of its series of derived minutes of use as a function of polynomially distributed 9-month lags (PDLs) of log of real price and of log of real per capita disposable income, log of population, a WATS direct assignment "dummy", and a "dummy" variable for the transition from non-measured to measured service. The PDLs were restricted to be zero at both ends of the lag. The model was pooled across 49 states (the 48 contiguous United States and the District of Columbia), and corrected for auto-correlation and heteroscedasticity. The estimates of all coefficients except the WATS direct assignment "dummy" and the constants were pooled. This model was used to estimate a national CCL MOU forecast and a state level TS MOU forecast, and yielded a long-run price elasticity of - .723 and a long-run income elasticity of .827. It had an R-squared corrected for degrees of freedom of .9958, and yielded an industry CCL MOU forecast of 236,657.0 million minutes of use. This represents an annualized growth rate of just over 12% from the PYCOS period.

2. Several criticisms can be made of this model. First, the model is not corrected for contemporaneous correlation. However, as AT&T correctly observes in its rebuttal,[1] there are not enough observations to make this correction, and failure to make this correction does not bias the estimates of the parameters or the forecast. The other criticisms to be discussed below led to alternate model specifications run by AT&T at this Bureau's request. The results are outlined in a letter from AT&T to the Chief, Tariff Division, of Dec. 14, 1987. The model specifications for AT&T's rebuttal model and these alternate models are given in Chart 1, and the summary statistics are given in Chart 2.

3. The first criticism is of the lag structure. By assuming a quadratic lag and constraining both end points to be zero, AT&T guaranteed that the marginal elasticities would start low, rise to the middle of the lag period and taper off. This may have the effect of putting more of the elasticity effect later in the period than may actually be the case. To check whether this was happening, and how it would affect the forecast, two alternatives were tried. The first (ALT1 on Charts 1 and 2) was to make the lags first degree PDLs with only a far end constraint. This model removes the imposed hump shape of the lag. The second (ALT2) was to impose only a far end constraint on the quadratic lag. This would remove the symmetric hump. Both alternatives raised the price and income elasticity and lowered the population elasticity. Their effect on the forecast was to change it by only about 0.5 percent (ALT1 lowered it, ALT2 raised it.)

4. A second criticism is that the dependent variable should be per capita, since the decision to make a telephone call is made by each person and the income variable is per capita. It should be noted that this specification forces the population elasticity to be one. If total number of minutes

increases by a larger percentage than the population, then the population elasticity should be greater than one. This model is ALT3 in Charts 1 and 2. The forecast from this model is 236,546.0 million minutes, only 0.05 percent lower than AT&T's rebuttal model.

5. A third criticism to make is that AT&T's model does not allow for a change in the growth rate after the direct assignment of WATS; the WATS direct assignment (WATDA) "dummy" only gives a one-time shift in the series. The simplest way to check whether there is a growth rate change is to insert a "dummy" variable which is a time trend beginning in June 1986, the beginning of direct assignment. This is ALT4 in Charts 1 and 2. Since WATS minutes have been growing more slowly than other types, and we are removing them from the series, we would expect the coefficient on this variable to be positive. As Chart 2 shows, however, it is negative. Since it had the theoretically incorrect sign, no forecast was made of this model.

6. A fourth criticism of AT&T's model is that it does not allow the price elasticity to change after the direct assignment of WATS. This possibility is checked by ALT5 in Chart 1, with an interaction term between the WATDA "dummy" and the price variable. We would expect this term to be positive, since slower growing WATS minutes are being removed from the series. As Chart 2 shows, this model gives a fairly high price elasticity and fairly low income and population elasticities, and a forecast of 240,990.3 million MOU, about 2% higher than AT&T's rebuttal model.

7. A fifth criticism of AT&T's model is a third issue concerning the modelling of direct assignment of WATS by a "dummy" variable. An alternative way of handling this is to convert CCL MOU starting in June 1986 by the PYCOS TS/CL ratio to traffic sensitive MOUs. A forecast derived from this model would be of traffic sensitive MOUs, and could then be converted to CCL MOU by dividing the forecast by the prospective TS/CL ratio. The historical and prospective TS MOUs and the CCL MOUs can be obtained from DMD-1 in the TRP. With TS MOU as the dependent variable, the WATDA "dummy" variable is not necessary. This model is ALT6 in Charts 1 and 2. This model gives a forecast of CCL MOUs about 10 billion greater than AT&T's rebuttal model. It also gives a very low income elasticity and high population elasticity. For these reasons, and because many of the TS/CL ratios provided by the LECs in the TRP appear to be erroneous, the results of this model are suspect.

CHART 1

ALT1

$$\log(CCLMOU)_t = a + \sum_{i=0}^{9} b_i \log(price/cpi)_{t-i} +$$

$$\sum_{i=0}^{9} c_i \log(dpi/(pop*cpi))_{t-i} +$$

$$d \log(pop)_t + e\ watda_t + f\ Mdum_t$$

The two lagged variables follow a second-order polynomial distributed lag (PDL) structure, with both endpoints restricted to be zero.

ALT2

Same model as ALT1, with the two variables following a first order PDL structure, and having only a far end restriction.

ALT3

Same model as ALT1, except the two lagged variables have only a far end restriction.

ALT4

$$\log(CCLMOU/pop)_t = a + \sum_{i=0}^{9} b_i \log(price/cpi)_{t-i} +$$

$$\sum_{i=0}^{9} c_i \log(dpi/(pop*cpi)_{t-i} +$$

$$d\ watda_t + e\ Mdum_t$$

Lagged variables have the same lag structure as ALT1.

CHART 1

ALT5

$$\log(CCLMOU)_t = a + \sum_{i=0}^{9} b_i \log(price/cpi)_{t-i} +$$

$$\sum_{i=0}^{9} c_i \log(dpi/(pop*cpi))_{t-i} +$$

$$\sum_{i=0}^{9} d_i (watda_t)(\log(price/cpi)_{t-i} +$$

$$e \log(pop)_t + f\ watda_t + g\ Mdum_t$$

Lagged variables have the same lag structure as ALT1.

ALT6

$$\log(TSMOU)_t = a + \sum_{i=0}^{9} b_i \log(price/cpi)_{t-i} +$$

$$\sum_{i=0}^{9} c_i \log(dpi/(pop*cpi)_{t-i} +$$

$$d \log(pop)_t + e\ watda_t + f\ Mdum_t$$

Lagged variables have the same lag structure as ALT1.

Chart 2

Model	Price	Income	Pop	Time	Inter-action	R Squared	Forecast
AT&T Rebuttal	-0.723 (-17.744)	0.827 (5.006)	1.208 (3.918)			.9958	236,657.0
ALT1	-0.742 (-18.663)	0.995 (6.337)	1.147 (3.735)			.9958	235,258.5
ALT2	-0.785 (-18.254)	0.876 (5.362)	1.128 (3.673)			.9958	237,755.2
ALT3	-0.734 (-19.677)	0.855 (5.343)	1.000			.9678	236,546.0
ALT4	-0.989 (-11.3388)	0.706 (4.111)	0.974 (3.039)	-0.005 (-3.386)		.9958	-
ALT5	-0.996 (-12.475)	0.751 (4.439)	0.942 (2.926)		0.098 (3.916)	.9958	240,990.3
ALT6	-0.834 (-24.262)	0.690 (6.851)	1.410 (6.986)	-	-	.9948	240,335.4

Attachment D

1. In addition to variants of AT&T's pooled model, this Bureau has estimated national level models. Various specifications were tried: lags on price and income of different lengths; unconstrained lags; 1st, 2nd, and 3rd degree PDLs with far endpoint restrictions; per capita models; log-log models and linear models; and models with time trends starting in June 1986. The dependent variable was either (some tranformation of) CCL MOUs or (some transformation of) TS MOU as derived from DMD-1. The specifications of the four best models are given in Chart 3. All four models are corrected for auto-correlation. The price variable has a 9-month first-order, far-endpoint-restricted PDL structure. In those models with a PDL on income, the PDL has a first-order, far-endpoint-restricted structure.

2. The first model produces the log of per capita TS MOU as a function of a 9 month PDL of the log of real price, a 3 month PDL of the log of per capita real disposable income and the "dummy" for the transition from non-measured to measured service. The second model is the same as model 1, but omits the "dummy" variable. In the third model, the dependent variable is the log of TS MOU, and the independent variables are the 9 month 1st order far-endpoint-restricted PDL of the log of real price, contemporaneous log of real per capita disposable income and the "dummy" for the transition from non-measured to measured service. The fourth model is the same as the third, except the income variable is replaced by the log of population. Chart 4 gives the price, income, and population elasticities, the R-squareds corrected for degrees of freedom, and the forecast for each model. Except for the last model, they all give price and income elasticities greater than those given by the pooled models. They also give higher forecasts, more in the range of the pooled TS MOU model (ALT6 on Chart 2). They also give lower R-squareds than the pooled models. Since the pooled models give reasonable elasticity estimates, have higher R-squareds, and give forecasts which have growth rates that more closely match historical trends, this Bureau believes that the pooled models are better forecasters of CCL demand.

CHART 3

Model 1

$$\log(TSMOU/pop)_t = a + \sum_{i=0}^{9} b_i \log(price/cpi)_{t-i} + \sum_{i=0}^{3} c_i \log(dpi/(pop*cpi))_{t-i} + d\ Mdum_t$$

Model 2

$$\log(TSMOU/pop)_t = a + \sum_{i=0}^{9} b_i \log(price/cpi)_{t-i} + \sum_{i=0}^{3} c_i \log(dpi/(pop*cpi))_{t-i}$$

Model 3

$$\log(TSMOU)_t = a + \sum_{i=0}^{9} b_i \log(price/cpi)_{t-i} + c \log(dpi/(pop*cpi))_t + d\ Mdum_t$$

Model 4

$$\log(TSMOU)_t = a + \sum_{i=0}^{9} b_i \log(price/cpi)_{t-i} + c \log(pop)_t + d\ Mdum_t$$

In all models, all lagged variables are first order PDLs, with the far endpoint restricted to be zero.

Chart 4

Model	Price	Income	Pop	R-Squared	Forecast
1	-.877 (-13.118)	1.591 (3.633)	1.000 -	.9170	249,861.7
2	-.805 (-12.194)	0.865 (2.423)	1.000 -	.9118	241,848.0
3	-.962 (-14.572)	1.4335 (3.709)	-	.9283	249,138.8
4	-.401 (-2.818)	-	9.406 (4.358)	.9323	245,641.6

TS/CL RATIOS

COSA	86:3	86:4	87:1	87:2	PYCOS	PROSPECTIVE
LBIL	1.2457	1.2019	1.2125	1.2033	1.2150	1.1966
NBIK	1.1241	1.1010	1.0296	1.0604	1.0768	1.1163
NBMI	1.1642	1.1473	1.1415	1.1339	1.1465	1.1472
OBOH	1.3814	1.1711	1.1885	1.1829	1.2247	1.1900
WTWI	1.1742	1.1804	1.1936	1.1258	1.1678	1.1419
CDDC	1.2122	0.6990	1.1621	1.1535	1.0519	1.1650
CHMD	1.4843	0.9282	1.1921	1.1153	1.1773	1.1012
CVVA	1.1730	1.1318	0.9042	1.2003	1.1030	1.1135
CWW	1.2912	1.0182	1.0931	1.1257	1.1290	1.1064
DSDE	1.2524	0.9714	1.3008	1.1638	1.1724	1.1877
PAPA	1.1948	1.0880	1.1241	1.1682	1.1422	1.1469
NJNJ	1.1618	1.2205	1.1541	0.9835	1.1276	1.1682
SBTC	1.1641	1.2415	1.1540	1.1244	1.1692	1.1168
SCTC	1.1708	1.1652	1.1269	1.1158	1.1435	1.1267
NETC	1.1411	1.1400	1.1393	1.1370	1.1393	1.1125
NYNY	1.1564	1.1366	1.1395	1.1370	1.1421	1.1014
PTCA	1.1437	1.1124	1.1322	1.1167	1.1517	1.1136
PTNY	1.2441	1.2133	1.2332	1.2500	1.2353	1.2559
S.TR	1.1916	1.1680	1.1411	1.1275	1.1562	1.1635
WSTC	1.1637	1.1285	1.1251	1.0650	1.1659	1.1266
WWTC	1.3518	1.2595	1.2498	1.2520	1.2628	1.2425
PWTC	1.1726	1.0687	1.1413	1.1267	1.1321	1.1459
CEFL	1.0109	1.0034	1.0163	1.0262	1.0186	1.0302
CENV	1.2593	1.2358	1.1420	1.1246	1.1855	1.1126
CETC	1.2373	1.2020	1.1395	1.1705	1.1859	1.1934
CDCA	1.0428	1.0448	1.0371	1.0435	1.0421	1.0245
CDNY	1.0166	1.0176	1.0203	1.0301	1.0218	1.0198
CDTA	1.0342	1.0371	1.0055	1.0037	1.0196	1.0059
CDVA	1.0206	1.0181	1.0192	1.0184	1.0191	1.0346
GTCA	1.0527	1.0962	1.0652	1.0986	1.0785	1.0918
GTFL	1.1223	1.1563	1.0329	1.1259	1.1063	1.0829
GTNW	1.0895	1.0552	1.0751	1.0856	1.0764	1.0938
GTSC	1.0979	1.0971	1.0734	1.0985	1.0917	1.1119
GTSW	1.0912	1.0301	1.0322	0.8847	1.0023	1.0887
GTNW	1.0556	1.0663	1.0551	1.0553	1.0581	1.1032
GTHI	1.0208	1.0093	1.1781	1.1466	1.0939	1.0804
LTNE	1.1526	1.1460	1.1048	1.1089	1.1275	1.0921
RTNY	1.1401	1.1339	1.1427	1.1524	1.1423	1.1219
SNCT	1.1861	1.1240	1.1424	1.1425	1.1485	1.1164
UTFL	1.0803	1.0688	1.0652	1.0541	1.0660	1.0440
UTIN	1.0785	1.1244	1.0597	1.0185	1.0693	1.0635
UTNC	1.0806	1.0702	1.1113	1.0810	1.0855	1.0596
UTOH	1.0835	1.1072	1.0655	1.1019	1.0897	1.0661
UTPA	1.1027	1.1157	1.0792	1.0829	1.0948	1.0844
UTIM	1.1863	1.1227	1.1239	1.0990	1.1301	1.1191
TOTAL	1.1791	1.1613	1.1344	1.1208	1.1480	1.1314

APPENDIX B

.TS TABLE 1 12/22/87
PAGE 1 OF 2

TRAFFIC - SENSITIVE DEMAND ADJUSTMENTS
(MILLION MOUs)

COMPANY	1987 DEMAND UNDER-FORECAST REPORT CARD	1985-1986 DEMAND UNDER-FORECAST REPORT CARD	1988 TREND TEST FOR CARRIER'S DEMAND FORECAST	SCORE TO TEST COMPANIES SUBJECT TO DEMAND ADJUSTMENT	COMPANIES SUBJECT TO ADJUSTMENT
	COL 1	COL 2	COL 3	COL 4	COL 5
ILLINOIS BELL	1		2	3	FAIL
INDIANA BELL	1	1		2	
MICHIGAN BELL			2	2	
OHIO BELL	1			1	
WISCONSIN BELL	1			1	
C & P (D.C.)	1	1		2	
C & P of MARYLAND				0	
C & P of VIRGINIA		1		1	
C & P OF WEST VIRGINIA		1		1	
DIAMOND STATE TEL.		1	2	3	FAIL
BELL OF PENNSYLVANIA				0	
NEW JERSEY BELL				0	
SOUTHERN BELL	1		2	3	FAIL
SOUTH CENTRAL BELL	1	1	2	4	FAIL
NEW ENGLAND TELEPHONE				0	
NEW YORK TELEPHONE				0	
PACIFIC BELL				0	
NEVADA BELL				0	
SOUTHWESTERN BELL TEL. CO.	1			1	
MOUNTAIN BELL	1			1	
NORTHWESTERN BELL	1	1	2	4	FAIL
PACIFIC NORTHWEST BELL		1		1	
CENTRAL OF FLORIDA	1	1	2	4	FAIL
CENTRAL OF NEVADA	1	1	2	4	FAIL
CINCINNATI BELL TELEPHONE				0	
CONTEL OF CALIFORNIA	1			1	
CONTEL OF NEW YORK			2	2	
CONTEL OF TEXAS				0	
CONTEL OF VIRGINIA	1	1		2	
GTE OF CALIFORNIA	1	1		2	
GTE OF FLORIDA	1	1	2	4	FAIL
GTE OF THE NORTHWEST	1			1	
GTE OF THE SOUTH		1		1	
GTE OF THE SOUTHWEST	1	1		2	
GTE MIDWEST OPERATIONS				0	
HAWAIIAN TELEPHONE CO.	1	1	2	4	FAIL
LINCOLN TELEPHONE COMPANY	1	1	2	4	FAIL
ROCHESTER TELEPHONE CORPORATION	1	1	2	4	FAIL
SOUTHERN NEW ENGLAND TELEPHONE		1		1	
UNITED OF FLORIDA	1			1	
UNITED OF INDIANA				0	
CAROLINA TEL. & TEL.		1		1	
UNITED OF OHIO	1	1		2	
UNITED OF PENN.		1		1	
UNITED INTER-MOUNTAIN	1			1	

TOTAL BOCs & ICOSs

TRAFFIC - SENSITIVE DEMAND ADJUSTMENTS
(MILLION MOUs)

COMPANY	CARRIER DEMAND FORECAST	ALTERNATE DEMAND FORECAST	PRELIMINARY TRAFFIC-SENSITIVE MOU ADJUSTMENT	TRAFFIC-SENSITIVE PERCENT ADJUSTMENT	FINAL TRAFFIC-SENSITIVE ADJUSTMENT
	COL 6	COL 7	COL 8	COL 9	COL 10
ILLINOIS BELL	9655	10327	672	6.96%	672
INDIANA BELL					
MICHIGAN BELL					
OHIO BELL					
WISCONSIN BELL					
C & P (D.C.)					
C & P of MARYLAND					
C & P of VIRGINIA					
C & P OF WEST VIRGINIA					
DIAMOND STATE TEL.	1157	1227	70	6.05%	70
BELL OF PENNSYLVANIA					
NEW JERSEY BELL					
SOUTHERN BELL	21860	23147	1287	5.89%	1287
SOUTH CENTRAL BELL	13186	13910	724	5.49%	724
NEW ENGLAND TELEPHONE					
NEW YORK TELEPHONE					
PACIFIC BELL					
NEVADA BELL					
SOUTHWESTERN BELL TEL. CO.					
MOUNTAIN BELL					
NORTHWESTERN BELL	7766	7972	206	2.65%	206
PACIFIC NORTHWEST BELL					
CENTRAL OF FLORIDA	502	504	2	0.40%	
CENTRAL OF NEVADA	1211	1270	59	4.87%	59
CINCINNATI BELL TELEPHONE					
CONTEL OF CALIFORNIA					
CONTEL OF NEW YORK					
CONTEL OF TEXAS					
CONTEL OF VIRGINIA					
GTE OF CALIFORNIA					
GTE OF FLORIDA	3296	3415	119	3.61%	119
GTE OF THE NORTHWEST					
GTE OF THE SOUTH					
GTE OF THE SOUTHWEST					
GTE MIDWEST OPERATIONS					
HAWAIIAN TELEPHONE CO.	953	1066	113	11.86%	113
LINCOLN TELEPHONE COMPANY	326	324			
ROCHESTER TELEPHONE CORPORATION	687	732	45	6.55%	45
SOUTHERN NEW ENGLAND TELEPHONE					
UNITED OF FLORIDA					
UNITED OF INDIANA					
CAROLINA TEL. & TEL.					
UNITED OF OHIO					
UNITED OF PENN.					
UNITED INTER-MOUNTAIN					
TOTAL BOCs & ICOSs	60599	63894	3295		

NOTES FOR TS TABLE 1 12/22/87

TRAFFIC-SENSITIVE DEMAND ADJUSTMENTS

COL 1	1987 DEMAND UNDERFORECAST REPORT CARD IF COL D OF TABLE 3 > 68%, ENTER 1
COL 2	1985 - 1986 DEMAND UNDERFORECAST REPORT CARD IF COL C OF TABLE 4 > 5.0 PERCENT, ENTER 1
COL 3	1988 TREND TEST FOR CARRIER'S DEMAND FORECAST IF COL E OF TABLE 4 IS NEGATIVE, ENTER 2
COL 4	SCORE TO TEST COMPANIES SUBJECT TO DEMAND ADJUSTMENT ADD COL 1, COL 2 AND COL 3
COL 5	COMPANIES SUBJECT TO ADJUSTMENT IF COL 4 GREATER THAN, OR EQUAL TO "3", ENTER "FAIL"
COL 6	CARRIER DEMAND FORECAST IF COL 5 = "FAIL", ENTER NUMBER FROM TABLE 5, COL A
COL 7	ALTERNATE DEMAND FORECAST IF COL 5 = "FAIL", ENTER NUMBER FROM TABLE 6, COL C
COL 8	PRELIMINARY TRAFFIC-SENSITIVE MOU ADJUSTMENT IF COL 7 > COL 6 , ENTER COL 7 MINUS COL 6
COL 9	TRAFFIC-SENSITIVE PERCENT ADJUSTMENT IF COL 8 HAS AN ENTRY, THEN COL 9 = COL 8 / COL 6
COL 10	FINAL TRAFFIC-SENSITIVE ADJUSTMENT IF COL 9 > 1.0 %, ENTER NUMBER IN COL 8

ADJUSTED FORECAST TRAFFIC SENSITIVE GROWTH RATES
(THOUSANDS MOU)

COMPANY	1986-1987 PAST YEAR COST OF SERVICE MOU	CARRIER 1988 FORECAST MOU	CARRIER 1988 FORECAST ANNUAL GROWTH RATE	ADJUSTED DEMAND FORECAST	ADJUSTED DEMAND FORECAST ANNUAL GROWTH RATE
	COL 1	COL 2	COL 3	COL 4	COL 5
ILLINOIS BELL	9,179,382	9,654,981	3.42%	10,327,000	8.17%
INDIANA BELL	2,543,110	2,780,340	6.13%		
MICHIGAN BELL	5,326,612	5,830,000	6.21%		
OHIO BELL	5,241,372	5,678,160	5.48%		
WISCONSIN BELL	2,686,461	2,943,963	6.29%		
C & P (D.C.)	1,993,077	2,054,122	2.03%		
C & P of MARYLAND	4,928,153	5,565,401	8.44%		
C & P of VIRGINIA	4,890,373	5,831,982	12.46%		
C & P OF WEST VIRGINIA	1,129,796	1,253,645	7.18%		
DIAMOND STATE TEL.	1,049,874	1,157,060	6.70%	1,227,000	10.95%
BELL OF PENNSYLVANIA	8,511,536	9,464,588	7.33%		
NEW JERSEY BELL	11,757,652	13,000,000	6.93%		
SOUTHERN BELL	20,259,484	21,860,349	5.20%	23,147,000	9.29%
SOUTH CENTRAL BELL	12,373,225	13,185,941	4.33%	13,910,000	8.12%
NEW ENGLAND TELEPHONE	11,474,410	13,019,067	8.78%		
NEW YORK TELEPHONE	18,776,625	21,408,408	9.14%		
PACIFIC BELL	15,852,409	17,580,000	7.14%		
NEVADA BELL	575,813	616,030	4.60%		
SOUTHWESTERN BELL TEL. CO.	19,861,198	22,388,015	8.31%		
MOUNTAIN BELL	13,049,471	14,234,753	5.97%		
NORTHWESTERN BELL	7,689,393	7,765,898	0.66%	7,972,000	2.44%
PACIFIC NORTHWEST BELL	5,268,906	5,708,474	5.49%		
CENTRAL OF FLORIDA	442,237	501,731	8.78%		
CENTRAL OF NEVADA	1,080,823	1,210,864	7.87%	1,270,000	11.35%
CINCINNATI BELL TELEPHONE	1,343,722	1,474,983	6.41%		
CONTEL OF CALIFORNIA	240,371	276,535	9.79%		
CONTEL OF NEW YORK	265,481	274,088	2.15%		
CONTEL OF TEXAS	117,317	140,949	13.01%		
CONTEL OF VIRGINIA	545,487	633,013	10.43%		
GTE OF CALIFORNIA	3,204,377	4,056,579	17.02%		
GTE OF FLORIDA	2,995,775	3,295,801	6.57%	3,415,000	9.12%
GTE OF THE NORTHWEST	1,273,683	1,372,877	5.13%		
GTE OF THE SOUTH	1,679,061	1,922,191	9.43%		
GTE OF THE SOUTHWEST	1,530,800	2,074,060	22.44%		
GTE MIDWEST OPERATIONS	4,044,045	4,737,354	11.13%		
HAWAIIAN TELEPHONE CO.	880,928	953,365	5.41%	1,066,000	13.56%
LINCOLN TELEPHONE COMPANY	316,398	326,083	2.03%		
ROCHESTER TELEPHONE CORPORATION	635,195	687,005	5.37%	732,000	9.92%
SOUTHERN NEW ENGLAND TELEPHONE	4,493,316	5,359,291	12.47%		
UNITED OF FLORIDA	1,607,314	2,112,408	19.98%		
UNITED OF INDIANA	210,724	244,993	10.57%		
CAROLINA TEL. & TEL.	1,206,580	1,339,954	7.24%		
UNITED OF OHIO	540,656	613,948	8.84%		
UNITED OF PENN.	325,144	380,305	11.01%		
UNITED INTER-MOUNTAIN	421,149	464,315	6.72%		
TOTAL BOCs & ICOSs	213,818,915	237,433,869	7.23%		

NOTES FOR TS TABLE 2 12/22/87

ADJUSTED FORECAST TRAFFIC SENSITIVE GROWTH RATES

COL 1 1986-1987 (PYCOS) MOU

TABLE 5, PAGE 2, COL I

COL 2 CARRIER 1988 FORECAST MOU

TABLE 5, PAGE 2, COL J

COL 3 CARRIER 1988 FORECAST ANNUAL GROWTH RATE

[(COL 2 / COL 1) ** 2/3]-1

COL 4 ADJUSTED DEMAND FORECAST

IF TABLE 1, COL 10 HAS ENTRY, ENTER TABLE 1, COL 7

COL 5 ADJUSTED DEMAND FORECAST ANNUAL GROWTH RATE

[(COL 4 / COL 1)** 2/3]-1

Tracking Analysis of 10/86 Filed Tier 1 LEC CCL Forecasts of 1987 Using 11/15/87 NECA-Filed CCL MOU Demand Through August

COSA A	ADJUSTED 1987 FORECAST* B	AUG 1987 YTD ACTUAL C	YTD PORTION REALIZED D = C/B
GTCA	3,221	2,907	90.2%
COCA	249	209	84.1%
CENV	842	670	79.5%
GTSW	1,363	1,081	79.3%
MSTC	10,318	8,010	77.6%
UTFL	1,435	1,111	77.4%
CEFL	399	308	77.1%
GTHI	774	585	75.6%
UTIM	354	267	75.5%
UTOH	476	356	74.9%
CDDC	1,723	1,258	73.0%
LINE	268	195	72.6%
SCTC	10,816	7,772	71.9%
SBTC	17,809	12,592	70.7%
GINW	1,199	847	70.6%
NBIN	2,436	1,715	70.4%
SWTR	17,194	12,065	70.2%
LBIL	7,747	5,427	70.1%
GTFL	2,776	1,933	69.6%
COVA	564	392	69.5%
NWTC	6,198	4,267	68.8%
WTWI	2,286	1,569	68.6%
RINY	692	474	68.5%
OBOH	4,601	3,136	68.2%
PINV	489	331	67.6%
NETC	10,408	7,036	67.6%
GTSO	1,607	1,082	67.3%
PAPA	7,880	5,294	67.2%
UTIN	209	140	67.1%
UTPA	314	211	67.0%
GTMW	4,139	2,764	66.8%
MBMI	4,898	3,265	66.7%
UTNC	1,197	796	66.5%
DSDE	986	646	65.5%
PNTC	4,784	3,121	65.2%
NJNJ	11,415	7,435	65.1%

* AT&T Petition, Appendix B-3, Figure 2, Column E, Filed October 27, 1987.

** Attachment to Letter from AT&T to Chief, Tariff Division, December 9, 1987.

TS TABLE 3
PAGE 2 OF 2
12/17/87

COSA A	ADJUSTED 1987 FORECAST* B	AUG 1987 YTD ACTUAL C	YTD PORTION REALIZED D = C/B
COTX	124	80	64.9%
CMMD	4,638	2,979	64.2%
CVVA	4,857	3,082	63.4%
NYNY	18,695	11,843	63.3%
SNCT	4,322	2,724	63.0%
CBTC	1,284	808	62.9%
PTCA	15,536	9,634	62.0%
CWWV	1,094	668	61.0%
CONY	284	145	51.1%
TOTAL	194,900	133,230	68.4%

* AT&T Petition, Appendix B-3, Figure 2, Column E, Filed October 27, 1987.

** Attachment to Letter from AT&T to Chief, Tariff Division, December 9, 1987.

DMD3.1 DATA FROM 1987 TRP
COMMON LINE MOU

SWITCHED MOU DEMAND DATA--MINUTES IN THOUSANDS

COMPANY	7/2/85 AS PROVIDED TO NECA A	NECA 6/85-5/86 ACTUALS B	PERCENT DIFFERENCE (HISTORICAL TO FILED) C (B/A)-1
ILLINOIS BELL	8,090,223	8,009,014	-1.00%
INDIANA BELL	2,234,484	2,494,395	11.63%
MICHIGAN BELL	4,617,284	4,819,761	4.39%
OHIO BELL	4,628,896	4,644,815	0.34%
WISCONSIN BELL	2,577,341	2,202,061	-14.56%
C & P (D.C.)	1,681,901	2,142,106	27.36%
C & P of MARYLAND	3,708,713	3,822,110	3.06%
C & P of VIRGINIA	4,017,710	4,338,159	7.98%
C & P OF WEST VIRGINIA	912,918	985,076	7.90%
DIAMOND STATE TEL.	815,336	968,204	18.75%
BELL OF PENNSYLVANIA	7,406,153	7,589,567	2.48%
NEW JERSEY BELL	9,431,441	9,087,783	-3.64%
SOUTHERN BELL	17,602,220	17,033,744	-3.23%
SOUTH CENTRAL BELL	10,949,412	11,815,663	7.91%
NEW ENGLAND TELEPHONE	10,077,756	9,742,141	-3.33%
NEW YORK TELEPHONE	16,200,058	16,783,400	3.60%
PACIFIC BELL	13,910,000	14,144,136	1.68%
NEVADA BELL	0	0	0.00%
SOUTHWESTERN BELL TEL. CO.	18,233,664	17,575,528	-3.61%
MOUNTAIN BELL	11,173,685	11,464,779	2.61%
NORTHWESTERN BELL	5,883,644	6,692,824	13.75%
PACIFIC NORTHWEST BELL	4,496,107	4,834,936	7.49%
CENTRAL OF FLORIDA	307,551	340,411	10.68%
CENTRAL OF NEVADA	780,466	873,137	11.87%
CINCINNATI BELL TELEPHONE	1,232,353	1,201,963	-2.47%
CONTEL OF CALIFORNIA	203,499	208,404	2.41%
CONTEL OF NEW YORK	219,934	220,295	0.16%
CONTEL OF TEXAS	102,663	103,648	0.96%
CONTEL OF VIRGINIA	411,602	479,193	16.42%
GTE OF CALIFORNIA	2,532,980	2,777,740	9.66%
GTE OF FLORIDA	2,296,048	2,486,633	8.30%
GTE OF THE NORTHWEST	1,180,909	1,179,353	-0.13%
GTE OF THE SOUTH	1,478,404	1,578,693	6.78%
GTE OF THE SOUTHWEST	1,221,411	1,366,941	11.91%
GTE MIDWEST OPERATIONS	3,691,669	3,911,551	1.63%
HAWAIIAN TELEPHONE CO.	629,702	672,327	6.77%
LINCOLN TELEPHONE COMPANY	269,276	296,604	10.15%
ROCHESTER TELEPHONE CORPORATION	525,831	606,865	15.41%
SOUTHERN NEW ENGLAND TELEPHONE	4,002,557	4,211,987	5.23%
UNITED OF FLORIDA	1,406,400	1,269,838	-9.71%
UNITED OF INDIANA	193,905	197,433	1.82%
CAROLINA TEL. & TEL.	1,022,080	1,080,999	5.76%
UNITED OF OHIO	455,219	478,633	5.14%
UNITED OF PENN.	267,609	286,330	7.00%
UNITED INTER-MOUNTAIN	329,729	346,081	4.96%
TOTAL DIVESTED BELL OCs	158,650,946	161,190,203	1.60%
TOTAL ICOs	24,761,797	26,175,058	5.71%
TOTAL BOCs & ICOSs	183,412,743	187,365,261	2.15%

LINEAR TREND FORECAST USING HISTORICAL AND PROSPECTIVE TS/CL RATIOS

COMPARISON OF FORECASTED TS ADU,
FROM THE 1988 TRP FILING CHART DMD1 AND FROM A
LINEAR TIME TREND FORECASTED USING THE TRP DATA

COSA	TRP FORECAST	TREND LINE FORECAST	95% CONFIDENCE INTERVAL OF TREND LINE LOWER BOUND	95% CONFIDENCE INTERVAL OF TREND LINE UPPER BOUND	AMOUNT BY WHICH TRP FORECAST MISSES UPPER BOUND OF CONFIDENCE INTERVAL	PERCENT BY WHICH TRP FORECAST MISSES UPPER BOUND OF CONFIDENCE INTERVAL	AMOUNT BY WHICH TRP FORECAST MISSES TREND LINE FORECAST	PERCENT BY WHICH TRP FORECAST MUST BE ADJUSTED TO MATCH TREND LINE FORECAST
	A	B	C	D	E	F	G	H
LBIL	9654981	10327017	9853001	10801034	-198020	-2.05%	-672036	6.961%
MBIN	2780340	2792715	2629711	2955718	0	0.00%	-12375	0.445%
MBMI	5830000	6235984	5899662	6572305	-69662	-1.19%	-405984	6.964%
OBOH	5678160	6030393	5638139	6422647	0	0.00%	-352233	6.203%
MTWI	2943963	3019403	2777287	3261519	0	0.00%	-75440	2.563%
CDOC	2054122	2071847	1713770	2429925	0	0.00%	-17725	0.863%
CMMO	5565401	5853973	5381616	6326331	0	0.00%	-288572	5.185%
CVVR	5831982	5642319	5070201	6214437	0	0.00%	189663	-3.252%
CHHV	1253645	1237970	1015277	1460663	0	0.00%	15675	-1.250%
DSDE	1157060	1260428	1157683	1363172	-623	-0.05%	-103368	8.934%
PAPA	9464588	9605078	8869740	10340417	0	0.00%	-140490	1.484%
NJNJ	13000000	13182912	12240373	14125451	0	0.00%	-182912	1.407%
SBTC	21860349	23766060	22762933	24769186	-902584	-4.13%	-1905711	8.718%
SCTC	13185941	14056184	13555201	14557167	-369260	-2.80%	-870243	6.600%
METC	13019067	13012641	12491012	13534271	0	0.00%	6426	-0.049%
NYNY	21408408	21019866	20224671	21815061	0	0.00%	388542	-1.815%
PTCA	17580080	17740693	17108662	18372723	0	0.00%	-160693	0.914%
PTNV	616030	649120	599337	698904	0	0.00%	-33090	5.372%
SWTR	22388015	22055919	21130090	22981747	0	0.00%	332096	-1.483%
MSTC	14234753	14838431	14097202	15579661	0	0.00%	-603678	4.241%
NWTC	7765898	9163183	8550998	9775368	-785100	-10.11%	-1397285	17.993%
PNTC	5708474	6199170	5594581	6803758	0	0.00%	-490696	8.596%
CEFL	501731	539965	507995	569935	-6264	-1.25%	-37234	7.421%
CENV	1210864	1295727	1237130	1354324	-26266	-2.17%	-84863	7.008%
CBTC	1474983	1494926	1407357	1582495	0	0.00%	-19943	1.352%
CDCA	276535	280018	270381	289656	0	0.00%	-3483	1.260%
CONY	274088	305359	288457	322261	-14369	-5.24%	-31271	11.409%
CDTX	140949	134937	128501	141374	0	0.00%	6012	-4.265%
CDVA	633013	643902	602402	685402	0	0.00%	-10889	1.720%
GTCA	4056579	3713313	3551731	3874895	181684	4.48%	343266	-8.462%
GTFL	3295801	3636858	3330500	3943217	-34699	-1.05%	-341057	10.348%
GTNV	1372877	1436553	1365576	1507530	0	0.00%	-63676	4.638%
GTSO	1922191	1833131	1696450	1969813	0	0.00%	89060	-4.633%
GTSW	2074060	1783032	1651485	1914579	159481	7.69%	291028	-14.032%
GTMW	4737354	4507997	4290792	4725201	12153	0.26%	229357	-4.841%
GTHI	953365	1069086	1015212	1122959	-61847	-6.49%	-115721	12.138%
LTNE	326083	359427	343077	375776	-16994	-5.21%	-33344	10.226%
RTNY	687005	732491	691220	773762	-4215	-0.61%	-45486	6.621%
SNCT	5359291	4973571	4599899	5347242	12049	0.22%	385720	-7.197%
UTFL	2112408	2004606	1795861	2213351	0	0.00%	107802	-5.103%
UTIN	244993	230282	214501	246064	0	0.00%	14711	-6.004%
UTNC	1339954	1412011	1328744	1495277	0	0.00%	-72057	5.378%
UTOH	613948	611775	572973	650577	0	0.00%	2173	-0.354%
UTPA	380305	363643	344459	382827	0	0.00%	16662	-4.381%
UTIM	464315	494904	461876	527932	0	0.00%	-30589	6.588%
TOTAL	237433869	243603070	237490408	249715731	-56539	-0.02%	-6169201	2.598%

LINEAR TREND FORECAST USING HISTORICAL AND PROSPECTIVE TS/CL RATIOS

COMPARISON OF FORECASTED TS MOU,
FROM THE 1988 TRP FILING CHART DM01 AND FROM A
LINEAR TIME TREND FORECASTED USING THE TRP DATA

				ANNUALIZED GROWTH RATES		CONFIDENCE INTERVAL OF TREND FORECAST OVER TRP PYCOS	
COSA	TRP PYCOS	TRP FORECAST	LINEAR TREND FORECAST	TRP FORECAST OVER TRP PYCOS	TREND FORECAST OVER TRP PYCOS	LOWER BOUND	UPPER BOUND
	I	J	K	L	M	N	O
LBIL	9179382	9654981	10327017	3.42%	8.17%	4.86%	11.48%
NBIN	2543110	2780340	2792715	6.13%	6.44%	2.30%	10.58%
NBMI	5326612	5830000	6235984	6.21%	11.08%	7.09%	15.07%
OBOH	5241372	5678160	6030393	5.48%	9.80%	5.04%	14.56%
WTMI	2686461	2943963	3019403	6.29%	8.10%	2.32%	13.88%
CODC	1993077	2054122	2071847	2.03%	2.62%	-9.21%	14.44%
CMMD	4928153	5565401	5853973	8.44%	12.16%	6.13%	18.20%
CWVA	4890373	5831982	5642319	12.46%	10.00%	2.57%	17.44%
CWV	1129796	1253645	1237970	7.18%	6.29%	-6.46%	19.03%
DSOC	1049874	1157060	1260428	6.70%	12.96%	6.82%	19.10%
PAPA	8511536	9464588	9605078	7.33%	8.39%	2.86%	13.92%
NJNJ	11757652	13000000	13182912	6.93%	7.93%	2.78%	13.07%
SBTC	20259484	21860349	23766060	5.20%	11.23%	8.10%	14.36%
SCTC	12373225	13185941	14056184	4.33%	8.87%	6.29%	11.46%
NETC	11474410	13019067	13012641	8.78%	8.75%	5.84%	11.65%
NYNY	18776625	21408408	21019866	9.14%	7.81%	5.09%	10.53%
PTCA	15852409	17580000	17740693	7.14%	7.79%	5.23%	10.35%
PTNV	575813	616030	649120	4.60%	8.32%	2.78%	13.85%
SWTR	19861198	22388015	22055919	8.31%	7.24%	4.24%	10.24%
MSTC	13049471	14234753	14838431	5.97%	8.94%	5.31%	12.57%
NJTC	7689393	7765898	9163183	0.66%	12.40%	7.39%	17.41%
PNTC	5268906	5708474	6199170	5.49%	11.45%	4.20%	18.69%
CEFL	442237	501731	538965	6.78%	14.10%	9.73%	18.47%
CENV	1080823	1210864	1295727	7.87%	12.85%	9.45%	16.25%
CBTC	1343722	1474983	1454926	6.41%	7.37%	3.17%	11.56%
CDCA	240371	276535	280018	9.79%	10.71%	8.17%	13.25%
CONY	265481	274088	305359	2.15%	9.78%	5.73%	13.83%
CDTX	117317	140949	134937	13.01%	9.78%	6.29%	13.27%
CDVA	545487	633013	643902	10.43%	11.69%	6.89%	16.49%
GTCA	3204377	4056579	3713313	17.02%	10.33%	7.13%	13.53%
GTFL	2995775	3295801	3636858	6.57%	13.80%	7.41%	20.19%
GTMW	1284428	1372877	1436553	4.54%	7.75%	4.20%	11.30%
GTSO	1680640	1922191	1833131	9.37%	5.96%	0.69%	11.23%
GTSW	1530800	2074060	1783032	22.44%	10.70%	5.26%	16.15%
GTMW	4044045	4737354	4507997	11.13%	7.51%	4.06%	10.96%
GTWI	880928	953365	1069086	5.41%	13.78%	9.95%	17.60%
LTNE	316398	326083	359427	2.03%	8.87%	5.57%	12.17%
RTNY	635195	687005	732491	5.37%	9.97%	5.84%	14.10%
SNCT	4493316	5359291	4973571	12.47%	7.00%	1.64%	12.36%
UTFL	1607314	2112408	2004606	19.98%	15.86%	7.82%	23.91%
UTIN	210724	244993	230282	10.57%	6.10%	1.25%	10.94%
UTNC	1206580	1339954	1412011	7.24%	11.05%	6.68%	15.42%
UTOH	540656	613948	611775	8.84%	8.59%	4.00%	13.18%
UTPA	325144	380305	363643	11.01%	7.75%	3.96%	11.54%
UTIM	421149	464315	454904	6.72%	11.36%	6.40%	16.31%
TOTAL	213891299	237433869	243603070	7.23%	9.08%	7.25%	10.90%

TRAFFIC - SENSITIVE MOU FORECAST
(MILLIONS MOUs)

COMPANY	COL A AT&T REBUTTAL FORECAST	COL B FCC TREND FORECAST	COL C LOWER OF COL A OR COL B
ILLINOIS BELL	10,506	10,327	10,327
INDIANA BELL	3,148	2,793	2,793
MICHIGAN BELL	5,981	6,236	5,981
OHIO BELL	5,968	6,030	5,968
WISCONSIN BELL	2,884	3,019	2,884
C & P (D.C.)	2,605	2,072	2,072
C & P of MARYLAND	5,179	5,854	5,179
C & P of VIRGINIA	5,826	5,642	5,642
C & P OF WEST VIRGINIA	1,217	1,238	1,217
DIAMOND STATE TEL.	1,227	1,260	1,227
BELL OF PENNSYLVANIA	9,845	9,605	9,605
NEW JERSEY BELL	14,113	13,183	13,183
SOUTHERN BELL	23,147	23,766	23,147
SOUTH CENTRAL BELL	13,910	14,056	13,910
NEW ENGLAND TELEPHONE	13,354	13,013	13,013
NEW YORK TELEPHONE	21,871	21,020	21,020
PACIFIC BELL	19,516	17,741	17,741
NEVADA BELL	677	649	649
SOUTHWESTERN BELL TEL. CO.	22,066	22,056	22,056
MOUNTAIN BELL	14,748	14,838	14,748
NORTHWESTERN BELL	7,972	9,163	7,972
PACIFIC NORTHWEST BELL	6,277	6,199	6,199
CENTRAL OF FLORIDA	504	539	504
CENTRAL OF NEVADA	1,270	1,296	1,270
CINCINNATI BELL TELEPHONE	1,530	1,495	1,495
CONTEL OF CALIFORNIA	296	280	280
CONTEL OF NEW YORK	309	305	305
CONTEL OF TEXAS	127	135	127
CONTEL OF VIRGINIA	650	644	644
GTE OF CALIFORNIA	3,945	3,713	3,713
GTE OF FLORIDA	3,415	3,637	3,415
GTE OF THE NORTHWEST	1,505	1,436	1,436
GTE OF THE SOUTH	1,904	1,833	1,833
GTE OF THE SOUTHWEST	1,694	1,783	1,694
GTE MIDWEST OPERATIONS	4,666	4,508	4,508
HAWAIIAN TELEPHONE CO.	1,066	1,069	1,066
LINCOLN TELEPHONE COMPANY	324	359	324
ROCHESTER TELEPHONE CORPORATION	740	732	732
SOUTHERN NEW ENGLAND TELEPHONE	5,616	4,974	4,974
UNITED OF FLORIDA	1,812	2,005	1,812
UNITED OF INDIANA	261	230	230
CAROLINA TEL. & TEL.	1,400	1,412	1,400
UNITED OF OHIO	616	612	612
UNITED OF PENN.	376	364	364
UNITED INTER-MOUNTAIN	505	495	495
TOTAL BOCs & ICOSs	246,568	243,616	239,766

LINEAR TREND FORECAST USING HISTORICAL AND PROSPECTIVE TS/CL RATIOS

COMPARISON OF FORECASTED TS MOU,
FROM THE 1988 TRP FILING CHART DMD1 AND FROM A
LINEAR TIME TREND FORECASTED USING THE TRP DATA

				ANNUALIZED GROWTH RATES		CONFIDENCE INTERVAL OF TREND FORECAST OVER TRP PYCOS	
COSA	TRP PYCOS	TRP FORECAST	LINEAR TREND FORECAST	TRP FORECAST OVER TRP PYCOS	TREND FORECAST OVER TRP PYCOS	LOWER BOUND	UPPER BOUND
	I	J	K	L	M	N	O
LBIL	9179382	9654981	10327017	3.42%	8.17%	4.86%	11.48%
MBIN	2543110	2780340	2792715	6.13%	6.44%	2.30%	10.58%
MBMI	5326612	5830000	6235984	6.21%	11.08%	7.09%	15.07%
OBOH	5241372	5678160	6030393	5.48%	9.80%	5.04%	14.56%
WTWI	2686461	2943963	3019403	6.29%	8.10%	2.32%	13.88%
CODC	1993077	2054122	2071847	2.03%	2.62%	-9.21%	14.44%
CMMO	4928153	5565401	5853973	8.44%	12.16%	6.13%	18.20%
CVVA	4890373	5831982	5642319	12.46%	10.00%	2.57%	17.44%
CWV	1129796	1253645	1237970	7.18%	6.29%	-6.46%	19.08%
DSOC	1049874	1157060	1260428	6.70%	12.96%	6.82%	19.10%
PAPA	8511536	9464588	9605078	7.33%	8.39%	2.86%	13.92%
NJNJ	11757652	13000000	13182912	6.93%	7.93%	2.78%	13.07%
SBTC	20259484	21860349	23766060	5.20%	11.23%	8.10%	14.36%
SCTC	12373225	13185941	14056184	4.33%	8.87%	6.29%	11.46%
NETC	11474410	13019067	13012641	8.78%	8.75%	5.84%	11.65%
NYNY	18776625	21408408	21019866	9.14%	7.81%	5.09%	10.53%
PTCA	15852409	17580000	17740693	7.14%	7.79%	5.23%	10.35%
PTNV	575813	616030	649120	4.60%	8.32%	2.78%	13.85%
SWTR	19861198	22388015	22055919	8.31%	7.24%	4.24%	10.24%
MSTC	13049471	14234753	14838431	5.97%	8.94%	5.31%	12.57%
NJTC	7689393	7765898	9163183	0.66%	12.40%	7.39%	17.41%
PNTC	5268906	5708474	6199170	5.49%	11.45%	4.20%	18.69%
CEFL	442237	501731	538965	8.78%	14.10%	9.73%	18.47%
CENV	1080823	1210864	1295727	7.87%	12.85%	9.45%	16.25%
CBTC	1343722	1474983	1494926	6.41%	7.37%	3.17%	11.56%
CDCA	240371	276535	280018	9.79%	10.71%	8.17%	13.25%
CONY	265481	274088	305359	2.15%	9.78%	5.73%	13.83%
CDTX	117317	140949	134937	13.01%	9.78%	6.29%	13.27%
CDVA	545487	633013	643902	10.43%	11.69%	6.89%	16.49%
GTCA	3204377	4056579	3713313	17.02%	10.33%	7.13%	13.53%
GTFL	2995775	3295801	3636858	6.57%	13.80%	7.41%	20.19%
GTNW	1284428	1372877	1436553	4.54%	7.75%	4.20%	11.30%
GTSO	1680640	1922191	1833131	9.37%	5.96%	0.69%	11.23%
GTSW	1530800	2074060	1783032	22.44%	10.70%	5.26%	16.15%
GTNW	4044045	4737354	4507997	11.13%	7.51%	4.06%	10.96%
GTHI	880928	953365	1069086	5.41%	13.78%	9.95%	17.60%
LTNE	316398	326083	359427	2.03%	8.87%	5.57%	12.17%
RTNY	635195	687005	732491	5.37%	9.97%	5.84%	14.10%
SNCT	4493316	5359291	4973571	12.47%	7.00%	1.64%	12.36%
UTFL	1607314	2112408	2004606	19.98%	15.66%	7.82%	23.91%
UTIN	210724	244993	230282	10.57%	6.10%	1.25%	10.94%
UTNC	1206580	1339954	1412011	7.24%	11.05%	6.68%	15.42%
UTOH	540656	613948	611775	8.84%	8.59%	4.00%	13.18%
UTPA	325144	380305	363643	11.01%	7.75%	3.96%	11.54%
UTIM	421149	464315	494904	6.72%	11.36%	6.40%	16.31%
TOTAL	213831239	237433869	243603070	7.23%	9.08%	7.25%	10.90%

Appendix B
TS TABLE 7 12/29/87
PAGE 1 OF 1

TIER 2A FORECAST ANALYSIS
AND NECA TS POOL ANALYSIS

ATTACHMENT

COMPANY / STUDY AREA	HISTORICAL 2 YEAR ANNUAL GROWTH	HISTORICAL 1 YEAR GROWTH	PROSPECTIVE ANNUAL GROWTH	PERCENT ADJUSTMENT TO PROSPECTIVE ANNUAL GROWTH	ADJUSTED PROSPECTIVE ANNUAL GROWTH	RATE ADJUSTMENT FACTOR
	COL 1	COL 2	COL 3	COL 4	COL 5	COL 6
CONTEL OF THE SOUTH - ALABAMA	20.21%	13.70%	2.51%	6.00%	8.51%	0.9202
CONTEL OF ARKANSAS	N/A	10.29%	5.26%	3.00%	8.26%	0.9600
CONTEL OF ILLINOIS	10.81%	25.82%	2.98%	6.00%	8.98%	0.9207
CONTEL OF INDIANA	N/A	13.29%	6.57%	2.00%	8.57%	0.9734
KANSAS STATE TELEPHONE	8.81%	27.52%	5.92%	2.00%	7.92%	0.9732
CONTEL OF KANSAS	N/A	22.28%	6.47%	2.00%	8.47%	0.9734
CONTEL OF KENTUCKY	15.16%	19.34%	3.85%	5.00%	8.85%	0.9338
CONTEL OF MAINE	16.22%	15.20%	9.24%		9.24%	1.0000
CONTEL OF MISSOURI	26.70%	N/A	8.85%		8.85%	1.0000
CONTEL OF NORTH CAROLINA	14.39%	11.03%	3.56%	5.00%	8.56%	0.9335
CONTEL OF NEW HAMPSHIRE	12.61%	21.00%	8.86%		8.86%	1.0000
CONTEL OF CALIFORNIA - NEVADA	16.95%	20.85%	4.29%	4.00%	8.29%	0.9466
CONTEL OF PENNSYLVANIA	21.73%	14.87%	7.15%	1.00%	8.15%	0.9866
CONTEL OF SOUTH CAROLINA	17.06%	13.35%	2.79%	6.00%	8.79%	0.9205
CONTEL OF VERMONT	12.16%	14.06%	8.19%		8.19%	1.0000
CONTEL OF WEST VIRGINIA	7.98%	8.10%	3.13%	4.00%	7.13%	0.9458
CENTRAL TELEPHONE OF ILLINOIS	N/A	N/A	7.95%	1.00%	8.95%	0.9868
CENTRAL TELEPHONE OF MINNESOTA	N/A	N/A	6.62%	2.00%	8.62%	0.9734
CENTRAL TELEPHONE OF NORTH CAROLINA	N/A	N/A	6.88%	2.00%	8.88%	0.9735
CENTRAL TELEPHONE OF OHIO	N/A	N/A	7.14%	1.00%	8.14%	0.9866
SYLVAN LAKE TELEPHONE - NEW YORK	N/A	N/A	6.67%		6.67%	1.0000
UNITED TELEPHONE OF IOWA	3.45%	6.87%	-2.42%		-2.42%	1.0000
UNITED TELEPHONE OF KANSAS	3.30%	10.04%	-5.15%		-5.15%	1.0000
UNITED TELEPHONE OF MINNESOTA	11.06%	22.61%	7.21%	1.00%	8.21%	0.9866
UNITED TELEPHONE OF MISSOURI	6.56%	12.03%	3.38%	3.00%	6.38%	0.9589
UNITED TELEPHONE OF THE WEST - NEBRASKA	7.33%	11.19%	-3.81%		-3.81%	1.0000
UNITED TELEPHONE OF THE NORTHWEST - OREGON	8.47%	14.78%	8.10%		8.10%	1.0000
UNITED TELEPHONE OF TEXAS	9.19%	13.32%	1.62%	7.00%	8.62%	0.9070
UNITED TELEPHONE OF THE NORTHWEST - WASHINGTON	10.06%	18.51%	2.74%	6.00%	8.74%	0.9204
NATIONAL EXCHANGE CARRIER ASSOCIATION -TS POOL	N/A	N/A	5.30%	3.00%	8.30%	0.9600

N O T E S
COL 1, COL 2 and COL 3 - AT&T'S PETITION, APPENDIX B-2 ,FIGURE 19 and 20
COL 5 equals COL 3 plus COL 4
COL 6 equals [1 +(COL 3 x 1.5] divided by [1 + (COL 5 x 1.5)]

S TABLE 8 12/24/87
PAGE 1 OF 1

TIER 2B FORECAST ANALYSIS

CO. PANY / STUDY AREA	HIS-TORICAL 2 YEAR ANNUAL GROWTH	HIS-TORICAL 1 YEAR GROWTH	PRO-SPECTIVE ANNUAL GROWTH	PERCENT ADJUST-MENT TO PRO-SPECTIVE ANNUAL GROWTH	ADJUSTED PRO-SPECTIVE ANNUAL GROWTH	AD ME FACT
	COL 1	COL 2	COL 3	COL 4	COL 5	COL 6
AYSHIRE FARMERS MUTUAL TELEPHONE - IOWA	N/A	N/A	4.93%	2.00%	6.93%	0.972
AY SPRINGS TELEPHONE - MISSISSIPPI	15.23%	11.68%	2.50%	4.00%	6.50%	0.9291
ACA VALLEY TELEPHONE - NEW MEXICO	N/A	N/A	-0.28%	7.00%	6.72%	0.9046
AST ASCENSION TELEPHONE - LOUISIANA	N/A	N/A	6.60%		6.60%	1.0000
GYPTIAN TELEPHONE COOPERATIVE - ILLINOIS	N/A	N/A	4.59%	2.00%	6.59%	0.9726
LKHART TELEPHONE - KANSAS	N/A	N/A	0.40%	6.00%	6.40%	0.9178
IDELITY TELEPHONE - MISSOURI	N/A	53.57%	-0.77%	7.00%	6.23%	0.9039
RIDLEY TELEPHONE -ILLINOIS	N/A	N/A	5.15%	1.00%	6.15%	0.9862
LLINOIS CONSOLIDATED TELEPHONE - ILLINOIS	14.62%	17.41%	5.02%	1.00%	6.02%	0.9862
NLAND TELEPHONE - ILLINOIS	N/A	N/A	8.48%		8.48%	1.0000
ERMAN TELEPHONE - CALIFORNIA	N/A	N/A	6.56%		6.56%	1.0000
A JICARITA RURAL TELEPHONE - NEW MEXICO	N/A	N/A	-1.78%	8.00%	6.22%	0.8902
AKESIDE TELEPHONE - ILLINOIS	N/A	N/A	7.18%		7.18%	1.0000
OULTRIE TELEPHONE - ILLINOIS	N/A	N/A	6.40%		6.40%	1.0000
ID'AND TELEPHONE - ILLINOIS	N/A	N/A	0.00%	6.00%	6.00%	0.9174
RCHARD FARM TELEPHONE - MISSOURI	11.28%	6.77%	-3.41%	10.00%	6.59%	0.8635
PLAINS COOPERATIVE TELEPHONE - COLORADO	N/A	N/A	8.31%		8.31%	1.0000
PRAIRIE TELEPHONE - ILLINOIS	N/A	N/A	8.24%		8.24%	1.0000
ROOSEVELT COUNTY RURAL TELEPHONE - NEW MEXICO	N/A	N/A	8.76%		8.76%	1.0000
SIERRA TELEPHONE - CALIFORNIA	N/A	N/A	7.78%		7.78%	1.0000
STRASBURG TELEPHONE - COLORADO	N/A	N/A	-2.35%	9.00%	6.65%	0.8772
WEST RIVER MUTUAL AID TELEPHONE - NORTH DAKOTA	N/A	N/A	0.01%	6.00%	6.01%	0.9174

N O T E S
COL 1, COL 2 and COL 3 - AT&T'S PETITION, APPENDIX B-2 ,FIGURE 19 and 20
COL 5 equals COL 3 plus COL 4
COL 6 equals [1 +(COL 3 x 1.5] divided by [1 + (COL 5 x 1.5)]
except for Bay Springs which uses 2.0 instead of 1.5

COL 6 equals [1 +(COL 3 x 1.5] divided by [1 + (COL 5 x 1.5)]

ELD1 12/23/87
PAGE 1 OF 4

EXPENSE LESS DEPRECIATION DISALLOWANCE CHART

TOTAL COMPANY SUBJECT TO SEPARATIONS

EXPENSE LESS DEPRECIATION

$$$ IN THOUSANDS	7/2/85 FILED	6/85-5/86 HISTORICAL		C > 3% ? PASS=0 FAIL=1
	A	B	C	D
	110 G	220 G	(A - B)/B	
COMPANY	$$$	$$$		
ILLINOIS BELL	1,286,433	1,270,731	1.24%	0
INDIANA BELL	404,611	391,129	3.45%	1
MICHIGAN BELL	1,108,493	1,067,602	3.83%	1
OHIO BELL	825,456	808,629	2.08%	0
WISCONSIN BELL	407,910	418,882	-2.62%	0
C & P (D.C.)	237,235	212,311	11.74%	1
C & P of MARYLAND	634,046	628,789	0.84%	0
C & P of VIRGINIA	625,355	636,925	-1.82%	0
C & P OF WEST VIRGINIA	228,404	212,420	7.52%	1
DIAMOND STATE TEL.	79,212	79,032	0.23%	0
BELL OF PENNSYLVANIA	1,173,527	1,154,623	1.64%	0
NEW JERSEY BELL	1,273,816	1,250,252	1.88%	0
SOUTHERN BELL	2,697,614	2,699,326	-0.06%	0
SOUTH CENTRAL BELL	1,941,400	1,922,533	0.98%	0
NEW ENGLAND TELEPHONE	1,607,217	1,607,072	0.01%	0
NEW YORK TELEPHONE	3,474,108	3,471,960	0.06%	0
PACIFIC BELL	4,465,127	4,058,743	10.01%	1
NEVADA BELL	0	0	0.00%	0
SOUTHWESTERN BELL TEL. CO.	3,597,784	3,399,851	5.82%	1
MOUNTAIN BELL	1,644,725	1,666,691	-1.32%	0
NORTHWESTERN BELL	944,397	943,242	0.12%	0
PACIFIC NORTHWEST BELL	797,480	770,804	3.46%	1
CENTRAL OF FLORIDA	57,172	52,995	7.88%	1
CENTRAL OF NEVADA	78,855	78,025	1.06%	0
CINCINNATI BELL TELEPHONE	238,418	223,743	6.56%	1
CONTEL OF CALIFORNIA	103,327	108,112	-4.43%	0
CONTEL OF NEW YORK	69,192	66,617	3.87%	1
CONTEL OF TEXAS	54,793	61,918	-11.51%	0
CONTEL OF VIRGINIA	79,863	0	0.00%	0
GTE OF CALIFORNIA	1,202,988	1,178,201	2.10%	0
GTE OF FLORIDA	522,060	519,294	0.53%	0
GTE OF THE NORTHWEST	271,412	271,696	-0.10%	0
GTE OF THE SOUTH	317,192	347,078	-8.61%	0
GTE OF THE SOUTHWEST	494,872	496,016	-0.23%	0
GTE MIDWEST OPERATIONS	912,000	901,310	1.19%	0
HAWAIIAN TELEPHONE CO.	170,706	164,797	3.59%	1
LINCOLN TELEPHONE COMPANY	47,976	53,208	-9.83%	0
ROCHESTER TELEPHONE CORPORATION	94,678	92,534	2.32%	0
SOUTHERN NEW ENGLAND TELEPHONE	648,277	642,794	0.85%	0
UNITED OF FLORIDA	222,684	232,461	-4.21%	0
UNITED OF INDIANA	51,562	48,691	5.90%	1
CAROLINA TEL. & TEL.	170,156	168,243	1.14%	0
UNITED OF OHIO	122,017	110,762	10.16%	1
UNITED OF PENN.	52,800	60,913	-13.32%	0
UNITED INTER-MOUNTAIN	57,178	56,133	1.86%	0
TOTAL DIVESTED BELL OCs	29,454,350	28,671,547	2.73%	
TOTAL ICOs	6,040,178	5,935,541	1.76%	
TOTAL BOCs & ICOSs	35,494,528	34,607,088	2.56%	

NOTE--REVENUE REQUIREMENT DATA FOR COLUMNS A, B, E, & F
ARE FROM 1987 TRP DATA COSS CHART.
ROW & COLUMN SOURCE INDICATED BELOW COLUMN LETTER.

EXPENSE LESS DEPRECIATION DISALLOWANCE CHART

INTERSTATE ACCESS
(COMMON LINE + SWITCHED + SPECIAL)
EXPENSE LESS DEPRECIATION

	7/2/85 FILED	6/85-5/86 HISTORICAL		G > 3X 7 PASS=0 FAIL=1	TOTAL SCORE	
	E	F	G	H	I	J
	110 A+B+C	220 A+B+C	(E - F)/F		D + H	IF I = 2 THEN FAIL
	$$$	$$$				
LBIL	269,842	269,566	0.10%	0	0	
NBIN	104,434	82,117	27.18%	1	2	FAIL
MBMI	158,732	144,831	9.60%	1	2	FAIL
OBOH	156,137	146,388	6.66%	1	1	
WTWI	73,635	85,289	-13.66%	0	0	
CODC	73,650	62,862	17.16%	1	2	FAIL
CMMD	121,301	115,990	4.58%	1	1	
CVVA	143,934	142,999	0.65%	0	0	
CWWV	50,230	48,172	4.27%	1	2	FAIL
DSDE	22,827	25,152	-9.24%	0	0	
PAPA	219,282	224,132	-2.16%	0	0	
NJNJ	300,754	291,014	3.35%	1	1	
SBTC	648,685	660,826	-1.84%	0	0	
SCTC	355,021	382,857	-7.27%	0	0	
NETC	394,131	394,030	0.03%	0	0	
NYNY	768,286	804,607	-4.51%	0	0	
PTCA	760,536	717,753	5.96%	1	2	FAIL
PTNV	0	0	0.00%	0	0	
SWTR	744,214	741,599	0.35%	0	1	
MSTC	467,649	499,368	-6.35%	0	0	
NWTC	224,519	223,542	0.44%	0	0	
PNTC	202,913	178,361	13.77%	1	2	FAIL
CEFL	10,398	10,338	0.58%	0	1	
CENV	25,776	24,295	6.10%	1	1	
CBTC	42,671	40,428	5.55%	1	2	FAIL
COCA	14,682	18,407	-20.24%	0	0	
CONY	9,785	10,226	-4.31%	0	1	
COTX	8,388	9,957	-15.76%	0	0	
COVA	14,179	15,990	0.00%	0	0	
GTCA	160,639	154,735	3.82%	1	1	
GTFL	137,141	136,677	0.34%	0	0	
GTNW	58,801	61,302	-4.08%	0	0	
GTSO	58,077	67,363	-13.79%	0	0	
GTSW	93,959	85,806	9.50%	1	1	
GTMW	146,475	145,845	0.43%	0	0	
GTHI	34,143	33,884	0.76%	0	1	
LTNE	7,697	8,366	-8.00%	0	0	
RTNY	11,402	14,304	-20.29%	0	0	
SNCT	133,068	140,103	-5.02%	0	0	
UTFL	67,745	75,412	-10.17%	0	0	
UTIN	11,389	10,135	12.37%	1	2	FAIL
UTNC	30,782	30,936	-0.50%	0	0	
UTOH	20,672	18,708	10.50%	1	2	FAIL
UTPA	8,203	9,435	-13.06%	0	0	
UTIM	10,858	10,885	-0.25%	0	0	
TBOC	6,260,712	6,241,455	0.31%			
TICO	1,116,930	1,133,537	-1.47%			
TOTL	7,377,642	7,374,992	0.04%			

EXPENSE LESS DEPRECIATION DISALLOWANCE CHART

	IF COL J = "FAIL" & ELD2 COL E IS POSITIVE & ELD COL F = OR > 1 % THEN DISALLOW	ELD2 COL F PERCENT	PERCENT TO DISALLOW 1-(100 / (100+COL L X 100))	ELD3 COL A $ (000) TO APPLY DISALLOWANCE COMMON LINE	ELD3 COL B SWITCHED	ELD3 COL C SPECIAL
	K	L	M	N	O	P
				$$$	$$$	$$$
NBIN	DISALLOW	2.50%	2.44%	40,236	41,080	16,992
CDDC	DISALLOW	9.45%	8.63%	23,991	23,123	23,82
PNTC	DISALLOW	4.14%	3.98%	90,453	78,503	27,208

EXPENSE LESS DEPRECIATION DISALLOWANCE CHART

	DISALLOWANCE AMOUNTS			
	COMMON LINE	SWITCHED	SPECIAL	TOTAL AMOUNT DISALLOWED
	Q	R	S	T
	M X N	M X O	M X P	Q + R + S
C O M P A N Y	###	###	###	###
INDIANA BELL	981	1,002	414	2,398
C & P (D.C.)	2,071	1,996	2,057	6,125
PACIFIC NORTHWEST BELL	3,596	3,121	1,082	7,798
TOTAL DIVESTED BELL OCs	6,649	6,119	3,553	16,321
TOTAL ICOs	0	0	0	0
TOTAL BOCs & ICOSs	6,649	6,119	3,553	16,321

COMPARISON OF FORECASTED EXPENSES LESS DEPRECIATION,
(TOTAL COMPANY SUBJECT TO SEPARATION), FROM THE 1988 TRP
FILING CHART COS3 AND FROM A LINEAR TIME TREND
FORECASTED USING THE TRP DATA

COSA	TRP FORECAST	TREND LINE FORECAST	95% CONFIDENCE INTERVAL OF TREND LINE LOWER BOUND	95% CONFIDENCE INTERVAL OF TREND LINE UPPER BOUND	AMOUNT BY WHICH TRP FORECAST MISSES UPPER BOUND OF CONFIDENCE INTERVAL	PERCENT BY WHICH TRP FORECAST MISSES UPPER BOUND OF CONFIDENCE INTERVAL	AMOUNT BY WHICH TRP FORECAST MISSES UPPER BOUND OF TREND LINE FORECAST	PERCENT BY WHICH TRP FORECAST MUST BE ADJUSTED TO MATCH TREND LINE FORECAST
	A	B	C	D	E	F	G	H
LBIL	1223660	1197346	1056833	1337859	0	0.00%	26314	-2.150%
NBIN	425608	385673	356375	414971	10637	2.50%	39935	-9.383%
NBMI	1149676	1122004	1033973	1210034	0	0.00%	27672	-2.407%
OBOH	826056	788603	710197	867009	0	0.00%	37453	-4.534%
NTWI	436876	442877	411877	473877	0	0.00%	-6001	1.374%
CODC	198868	162157	144234	180079	18789	9.45%	36711	-18.460%
CMMU	713915	695685	658522	732849	0	0.00%	18230	-2.553%
CWA	722881	698460	648904	748015	0	0.00%	24421	-3.378%
CWW	223799	219639	202956	236322	0	0.00%	4160	-1.859%
DSD	95925	89314	82885	95744	181	0.19%	6611	-6.891%
PAPA	1334311	1357489	1264223	1450755	0	0.00%	-23178	1.737%
NJNJ	1426062	1279837	1202819	1356855	69207	4.85%	146225	-10.254%
SBTC	2889856	3018891	2857999	3179783	0	0.00%	-129035	4.465%
SCTC	1886398	1986788	1830824	2142752	0	0.00%	-100390	5.322%
NETC	1552115	1704202	1610091	1798313	-57976	-3.74%	-152087	9.799%
NYNY	3808468	3722403	3578984	3865823	0	0.00%	86065	-2.260%
PTCR	3643793	3461315	3099227	3823403	20390	0.53%	382478	-9.951%
PTNJ	72441	61717	48166	75267	0	0.00%	10724	-14.804%
SWTR	3242343	3116721	2798850	3434593	0	0.00%	125622	-3.874%
STC	1794598	1657268	1527477	1787060	7538	0.42%	137330	-7.652%
NWTC	927317	982946	879099	1086794	0	0.00%	-55629	5.999%
PNTC	763951	694583	656831	732334	31617	4.14%	69368	-9.080%
CEFL	65536	62145	53423	70866	0	0.00%	3391	-5.175%
CENJ	89994	88691	84039	93344	0	0.00%	1303	-1.447%
CBTC	209521	237817	219813	255822	-10292	-4.91%	-28296	13.505%
CDCA	121844	121385	115202	127568	0	0.00%	459	-0.377%
CONY	76738	75875	67541	84209	0	0.00%	863	-1.125%
CDTX	69523	68234	60733	75736	0	0.00%	1289	-1.854%
CDVA	113727	102933	97127	108738	4989	4.39%	10794	-9.491%
GTCR	1214888	1389340	1312228	1466453	-97340	-8.01%	-174452	14.360%
GTFL	571630	574235	538668	609802	0	0.00%	-2605	0.456%
GTNW	264381	295072	265422	324721	-1041	-0.39%	-30691	11.609%
GTSO	399740	398571	338172	458970	0	0.00%	1169	-0.292%
GTSW	530673	561376	468347	654404	0	0.00%	-30703	5.786%
GTWW	975406	991254	817718	1164789	0	0.00%	-15848	1.625%
GTWI	161937	157992	127704	188279	0	0.00%	3945	-2.436%
LTNE	56874	40771	12060	69482	0	0.00%	16103	-28.313%
RTNY	107101	100357	95985	104728	2373	2.22%	6744	-6.297%
SNCT	665333	711121	667646	754597	-2313	-0.35%	-45788	6.882%
UTFL	268644	249751	221150	278352	0	0.00%	18893	-7.033%
UTIN	53929	52821	46300	59342	0	0.00%	1108	-2.055%
UTNC	180711	168334	147823	188846	0	0.00%	12377	-6.849%
UTOH	117979	109080	98103	120057	0	0.00%	8899	-7.543%
UTPA	58293	61407	53937	68876	0	0.00%	-3114	5.341%
UTWI	67923	80247	53728	64766	3157	4.65%	8676	-12.773%
TOTAL	36001242	35523728	33900379	37147077	0	0.00%	477514	-1.326%

COMPARISON OF FORECASTED EXPENSES LESS DEPRECIATION,
(TOTAL COMPANY SUBJECT TO SEPARATION), FROM THE 1988 TRP
FILING CHART COS3 AND FROM A LINEAR TIME TREND
FORECASTED USING THE TRP DATA

COSA	TRP PYCOS	TRP FORECAST	LINEAR TREND FORECAST	ANNUALIZED GROWTH RATES: TRP FORECAST OVER TRP PYCOS	ANNUALIZED GROWTH RATES: TREND FORECAST OVER TRP PYCOS	95% CONFIDENCE INTERVAL OF TREND FORECAST OVER TRP PYCOS: LOWER BOUND	95% CONFIDENCE INTERVAL OF TREND FORECAST OVER TRP PYCOS: UPPER BOUND
	I	J	K	L	M	N	O
LBIL	1249700	1223660	1197346	-1.99%	-2.81%	-10.42%	4.79%
MBIN	393159	425608	385673	5.43%	-1.27%	-6.27%	3.73%
MBMI	1097859	1149676	1122004	3.12%	1.46%	-3.85%	6.77%
OBOH	786385	826056	788603	3.34%	0.19%	-6.45%	6.83%
WTWI	415548	436876	442877	3.99%	4.34%	-0.53%	9.21%
CDOC	186063	198868	162157	4.54%	-8.76%	-15.48%	-2.04%
CMMD	664871	713915	695685	4.86%	3.07%	-0.60%	6.74%
CVAR	659118	722881	698460	6.35%	3.94%	-0.98%	8.86%
CWAV	220022	223799	219639	1.14%	-0.12%	-5.17%	4.94%
DSOL	84590	85925	89314	8.74%	3.69%	-1.29%	8.67%
PAPR	1290101	1334311	1357489	2.27%	3.45%	-1.29%	8.19%
NJNJ	1243855	1426062	1279837	9.54%	1.92%	-2.17%	6.01%
SBTC	2782080	2889856	3018891	2.57%	5.60%	1.85%	9.35%
SCTC	1892342	1886398	1986788	-0.21%	3.30%	-2.11%	8.71%
NETC	1630409	1552115	1704202	-3.23%	3.00%	-0.80%	6.79%
NYNY	3586004	3808468	3722403	4.09%	2.52%	-0.11%	5.15%
PTCR	3685701	3843793	3461315	2.84%	-4.10%	-10.79%	2.59%
PTNJ	68387	72441	61717	3.93%	-6.59%	-20.27%	7.08%
SWTR	3238881	3242343	3116721	0.07%	-2.53%	-9.16%	4.10%
WSTC	1648877	1794598	1657268	5.81%	0.34%	-4.90%	5.58%
WATC	960262	927317	982946	-2.30%	1.57%	-5.59%	8.72%
PNTC	741456	763951	694583	2.01%	-4.26%	-7.73%	-0.79%
CEFL	56996	65536	62145	9.75%	5.94%	-3.98%	15.85%
CENV	79199	89994	88691	8.89%	7.84%	4.07%	11.61%
CBTC	232828	209521	237817	-6.79%	1.42%	-3.70%	6.54%
COCR	112701	121844	121385	5.94%	5.07%	1.51%	8.64%
CONY	70568	76738	75875	5.75%	4.95%	-2.73%	12.64%
CDTX	62963	69523	68234	6.83%	5.51%	-2.23%	13.24%
CDVA	84771	113727	102933	21.64%	13.82%	9.54%	18.10%
GTCR	1279853	1214888	1389340	-3.41%	5.62%	1.72%	9.53%
GTFL	540853	571630	574235	3.76%	4.07%	-0.22%	8.37%
GTNH	272749	264381	295072	-2.06%	5.38%	-1.68%	12.44%
GTSO	360953	399740	398571	7.04%	6.83%	-3.96%	17.63%
GTSW	505648	530673	561376	3.27%	7.22%	-4.63%	19.06%
GTWW	947776	975406	991254	1.93%	3.04%	-8.99%	15.06%
GTWI	160949	161937	157992	0.41%	-1.23%	-13.85%	11.39%
LTNE	58200	56874	40771	-1.82%	-21.12%	-68.15%	15.91%
RTNY	98321	107101	100357	5.87%	1.38%	-1.57%	4.32%
SNCT	669344	665333	711121	-0.40%	4.12%	-0.12%	8.36%
UTFL	232247	268644	249751	10.19%	4.96%	-3.05%	12.98%
UTIN	48414	53929	52821	7.46%	5.98%	-2.74%	14.70%
UTNC	164051	180711	168334	6.66%	1.73%	-6.53%	10.00%
UTOH	106361	117979	109080	7.16%	1.70%	-5.13%	8.52%
UTPR	54141	58293	61407	5.05%	8.76%	-0.06%	17.58%
UTIN	85484	97923	89247	14.44%	4.47%	-2.02%	10.96%
TOTAL	34781020	36001242	35523728	2.33%	1.42%	-1.67%	4.81%

DATA FROM 1988 T&P COSS CHART
REVENUE REQUIREMENT
TEST PERIOD
1/88 TO 12/88 (PART 32)
EXPENSE LESS DEPRECIATION
ROW 110 COL A,B,C

($$$ IN THOUSANDS)

COMPANY	INTERSTATE ACCESS			
	COMMON LINE $$$	SWITCHED $$$	SPECIAL $$$	TOTAL INTERSTATE ACCESS (EXCL. BILLING & COLLECTION) $$$
	A	B	C	D
	110 A	110 B	110 C	SUM OF A B C
ILLINOIS BELL	128,230	100,122	71,376	299,728
INDIANA BELL	40,236	41,080	16,992	98,308
MICHIGAN BELL	84,909	76,810	41,623	203,342
OHIO BELL	77,042	64,261	37,731	179,034
WISCONSIN BELL	40,989	39,304	19,226	99,519
C & P (D.C.)	23,991	23,123	23,825	70,939
C & P of MARYLAND	66,794	55,079	32,740	154,613
C & P of VIRGINIA	83,886	57,376	36,101	177,363
C & P OF WEST VIRGINIA	27,178	19,145	7,181	53,504
DIAMOND STATE TEL.	10,504	14,295	5,856	30,655
BELL OF PENNSYLVANIA	108,397	111,406	65,604	285,407
NEW JERSEY BELL	161,223	136,247	62,001	359,471
SOUTHERN BELL	420,928	226,851	132,298	780,077
SOUTH CENTRAL BELL	219,322	139,373	75,918	434,613
NEW ENGLAND TELEPHONE	195,499	196,563	81,949	474,011
NEW YORK TELEPHONE	384,123	410,922	212,834	1,007,879
PACIFIC BELL	376,542	259,591	107,912	744,045
NEVADA BELL	13,495	13,234	3,544	30,273
SOUTHWESTERN BELL TEL. CO.	361,459	246,267	132,330	740,056
MOUNTAIN BELL	266,563	212,409	71,790	550,762
NORTHWESTERN BELL	99,884	103,959	50,864	254,707
PACIFIC NORTHWEST BELL	90,453	78,503	27,208	196,164
CENTRAL OF FLORIDA	7,427	7,176	1,406	16,009
CENTRAL OF NEVADA	12,969	12,867	1,758	27,594
CINCINNATI BELL TELEPHONE	15,859	18,321	10,067	44,247
CONTEL OF CALIFORNIA	10,885	7,350	1,544	19,779
CONTEL OF NEW YORK	7,447	4,711	880	13,038
CONTEL OF TEXAS	6,700	3,464	470	10,634
CONTEL OF VIRGINIA	11,707	9,377	2,054	23,138
GTE OF CALIFORNIA	121,426	92,247	22,635	236,308
GTE OF FLORIDA	88,314	50,823	13,419	152,556
GTE OF THE NORTHWEST	31,283	25,719	5,351	62,353
GTE OF THE SOUTH	40,640	41,655	10,638	92,933
GTE OF THE SOUTHWEST	52,699	41,546	10,983	105,228
GTE MIDWEST OPERATIONS	84,493	81,950	18,283	184,726
HAWAIIAN TELEPHONE CO.	15,299	23,578	3,963	42,840
LINCOLN TELEPHONE COMPANY	4,128	5,863	1,123	11,114
ROCHESTER TELEPHONE CORPORATION	8,416	7,021	2,769	18,206
SOUTHERN NEW ENGLAND TELEPHONE	64,055	68,258	27,040	159,353
UNITED OF FLORIDA	36,651	25,376	4,024	86,051
UNITED OF INDIANA	6,587	5,830	2,036	14,453
CAROLINA TEL. & TEL.	22,144	13,985	4,679	40,808
UNITED OF OHIO	12,301	9,937	2,899	25,137
UNITED OF PENN.	6,413	4,600	1,251	12,264
UNITED INTER-MOUNTAIN	8,311	4,496	1,591	14,398
TOTAL DIVESTED BELL OCs	3,281,648	2,625,920	1,316,902	7,224,470
TOTAL ICOs	696,154	566,150	150,863	1,413,167
TOTAL BOCs + ICOs	3,977,802	3,192,070	1,467,765	8,637,637

APPENDIX D

Petitions and Comments

Ad Hoc Telecommunications Users Committee (Ad Hoc)*

Aeronautical Radio, Inc. (ARINC)

ALC Communications Corporation (ALC)

Arerican Petroleum Institute (API)

American Telephone and Telegraph Company (AT&T)

Independent Data Communications Manufacturers Association, Inc. (IDCMA)

International Communications Association (ICA)

Local Area Telecommunications, Inc. (LOCATE)

MCI Telecommunications Corporation (MCI)

Microtel, Inc. (Microtel)

Mid Atlantic Telecom (Mid Atlantic)

Satellite Data Broadcast networks, Inc. (SATNET)

Teleport Communications (TC)

Capital Cities/ABC, Inc. (ABC); CBS Inc. (CBS); National Broadcasting Company, Inc. (NBC); Association of Independent Television Stations, Inc. (INTV); Hughes Television Network (HTN); and National Association of Broadcasters (NAB), collectively the "Television Service User Parties" (TV Service Users).*

United States Telephone Association (USTA)

United States Transmission Systems, Inc. (USTS)

US Sprint Communications Company (US Sprint)

Western Union Telegraph Company (Western Union)

*Late-filed petitions. Each of these petitions was filed one day late. Because no party is prejudiced and good cause was shown under the circumstances, the motions to accept late-filed pleadings are granted.

Replies and Oppositions

Ameriteeh Operating Companies (Ameritech)

Bay Springs Telephone Compnay, Inc. (Bay Springs)

Bell Atlantic Telephone Co. (Bell Atlantic)

BellSouth Telephone Co. (BellSouth)

Centel Telephone Companie (Centel)

Chillicothe Telephone Co. (Chillicothe)

Cincinnati Bell Telephone Company (CBT)

Contel Corporation (Contel)

Elkhart Telephone Company (Elkhart)

GTE Telephone Cos. (GTOCs)

GVNW Inc./Management (GVNW)

Lincoln Telephone and Telegraph Company (Lincoln)

US West (Mountain States Telephone & Telegraph Compnay (MTN), Northwestern Bell Telephone Company (NWB), and Pacific Northwest Telephone Company (PNB))

National Exchange Carrier Association (NECA)

NYNEX Telephone Companies (New England Telephone Compnay (NET) and New York Telephone Company (NYT)) or (NYNEX)

Nevada Bell

Pacific Bell

Rochester Telephone Corporation (Rochester)

Southern New England Telephone Company (SNET)

Southwestern Bell Telephone Company (Southwestern Bell)

United Telephone System Operating Companies

Supplemental Comments

Ad Hoc

ALC

API

ARINC

AT&T

Television Service Users' Parties

ICA

IDCMA

MCI

Microtel

USTS

Western Union

APPENDIX E

The following charts provide various types of comparative information. They have been derived directly from the Tier 1 carriers' filed data, and do not reflect the changes and disallowances ordered by the Common Carrier Bureau. These charts reflect all data and data corrections filed through December 12, 1987. Each chart contains comparisons both in dollar amounts, and in percentages. The first 37 charts contain data for each regional Bell holding company and for four of the major Tier 1 independent holding companies, as well as for the 22 Bell operating companies and the 23 Tier 1 independent companies.

Charts 1 - 4 contain analyses of the impact of various rule changes on the carriers' 1988 revenue requirements. The impact of tax reform, pension accrual treatment, depreciation and amortization reserve imbalance corrections, and Part 32/36/69 revisions are shown. The companies are ranked according to the percentage impact that these changes have had on their revenue requirements, the greatest positive impact being ranked first, and the greatest negative impact being ranked last.

Charts 5 - 7 compare the past year cost of service (PYCOS) (July 1986 through June 1987) access revenue requirement with the PYCOS revenues, the test year (calendar year 1988) revenue requirement, and the hypothetical test year revenue requirement that would have resulted if Parts 31 and 67 of the Commission's Rules had not been revised. The past year cost of service amounts were computed for the period from July 1, 1986 to June 30, 1987 using a blended rate of return because the maximum allowable rate of return was reduced on January 1, 1987. Once again, the companies are ranked by percentage changes, the greatest positive change being ranked first, and the greatest negative change being ranked last.

Charts 8 - 20 compare the carriers' historical Part 31 expenses and investment (1H31), prospective Part 32 expenses and investment (1P32), and prospective expenses and investment as if Part 31 were still in effect (1P31). These comparisons are done for total company amounts before application of Parts 64 and 36, total company amounts subject to separations (after application of Part 64), and total interstate amounts (after application of Parts 64 and 36). The final chart in this group compares the carriers' prospective Part 32 interstate revenue requirement to the prospective interstate revenue requirement as if Part 31 were still in effect. On this last chart, the companies are ranked according to the percentage impact that the Part 32 rule changes had on their revenue requirements, the greatest positive impact being ranked first, and the greatest negative impact being ranked last.

Charts 21 - 25 compare PYCOS demand with test year demand. There are demand comparisons for common line minutes of use, traffic sensitive minutes of use, two-wire voice grade special access channel terminations, four-wire

voice grade special access channel terminations, and high capacity special access channel terminations. On each chart the companies are ranked according to the percentage of growth in demand that they have forecasted, the greatest decrease in growth being ranked first, and the greatest increase in growth being ranked last.

The remaining charts contain computations for each of the 105 Tier 1 company study areas for which we received data.

Charts 26 - 31 show the rate of return earned by the companies during the initial rate of return monitoring period (October 1, 1985 to December 31, 1986) and during the first six months of the current monitoring period (January 1, 1987 to June 30, 1987). These rates of return are shown for each company for the interstate access category as a whole, the traffic sensitive switched category, and the special access category. The companies are then ranked according to their achieved rate of return, highest first.

Charts 32 - 34 compare current rates with proposed rates for premium switched access (excluding carrier common line), voice grade special access (using a four-wire circuit with 10 miles of transport), and high capacity special access (using a circuit with 10 miles of transport). The companies are ranked according to the magnitude of their proposed rate changes, the greatest percentage increase being ranked first, and the greatest percentage decrease being ranked last.

CDS4
12/12/87

CDS4A
ANALYSIS OF IMPACT OF TAX REFORM
(DOLLARS IN THOUSANDS)

(TEST YEAR = 1/88-12/88)

COMPANY	TOTAL REGULATED IS ACCESS TEST YEAR REVENUE REQUIREMENT COL A	REVENUE REQUIREMENT DUE TO IMPACT OF TAX REFORM COL B	PERCENTAGE CHANGE OF IMPACT OF TAX REFORM COL C = B/A	RANK
AMERITECH	1,895,437	(87,268)	-4.60%	4
BELL ATLANTIC	2,429,090	(111,675)	-4.60%	3
BELL SOUT..	2,803,027	(156,865)	-5.60%	9
NYNEX	3,039,200	(67,614)	-2.22%	2
PACIFIC	1,788,955	(116,551)	-6.52%	10
SOUTHWESTERN BELL TEL. CO.	1,793,397	(36,326)	-2.03%	1
U.S. WEST	2,329,458	(116,191)	-4.99%	6
CENTRAL TELEPHONE CO.	91,489	(4,793)	-5.24%	7
CONTINENTAL TELEPHONE CO.	150,902	(8,139)	-5.39%	8
GENERAL TELEPHONE OPERATING COs	2,098,117	(136,964)	-6.53%	11
UNITED TELEPHONE SYSTEM	435,468	(20,979)	-4.82%	5
TOTAL DIVESTED BELL OCs	16,078,564	(692,490)	-4.31%	
TOTAL ICOs	3,300,833	(200,468)	-6.07%	
TOTAL BOCs + ICOs	19,379,397	(892,958)	-4.61%	
ILLINOIS BELL	624,765	(30,008)	-4.80%	19
INDIANA BELL	224,658	(9,792)	-4.36%	14
MICHIGAN BELL	432,464	(15,460)	-3.57%	7
OHIO BELL	399,214	(22,515)	-5.64%	37
WISCONSIN BELL	214,336	(9,493)	-4.43%	15
C & P (D.C.)	171,203	(8,184)	-4.78%	18
C & P of MARYLAND	334,064	(17,493)	-5.24%	29
C & P of VIRGINIA	370,717	(18,697)	-5.04%	24
C & P OF WEST VIRGINIA	120,631	(5,204)	-4.31%	13
DIAMOND STATE TEL.	67,767	(2,800)	-4.13%	11
BELL OF PENNSYLVANIA	622,347	(22,750)	-3.66%	8
NEW JERSEY BELL	742,361	(36,547)	-4.92%	23
SOUTHERN BELL	1,757,313	(105,835)	-6.02%	40
SOUTH CENTRAL BELL	1,045,714	(51,030)	-4.88%	21
NEW ENGLAND TELEPHONE	980,797	(37,737)	-3.85%	10
NEW YORK TELEPHONE	2,058,403	(29,877)	-1.45%	2
PACIFIC BELL	1,724,858	(113,306)	-6.57%	41
NEVADA BELL	64,097	(3,245)	-5.06%	26
SOUTHWESTERN BELL TEL. CO.	1,793,397	(36,326)	-2.03%	3
MOUNTAIN BELL	1,273,300	(64,447)	-5.06%	25
NORTHWESTERN BELL	616,121	(33,469)	-5.43%	34
PACIFIC NORTHWEST BELL	440,037	(18,275)	-4.15%	12
CENTRAL OF FLORIDA	33,046	(1,719)	-5.20%	28
CENTRAL OF NEVADA	58,443	(3,074)	-5.26%	31
CINCINNATI BELL TELEPHONE	91,093	(5,028)	-5.52%	35
CONTEL OF CALIFORNIA	46,442	(3,192)	-6.87%	42
CONTEL OF NEW YORK	28,951	(1,062)	-3.67%	9
CONTEL OF TEXAS	25,541	(1,250)	-4.89%	22
CONTEL OF VIRGINIA	49,968	(2,635)	-5.27%	33
GTE OF CALIFORNIA	509,175	(37,569)	-7.38%	43
GTE OF FLORIDA	368,632	(2,153)	-0.58%	1
GTE OF THE NORTHWEST	184,521	(5,336)	-2.89%	4
GTE OF THE SOUTH	209,123	(9,896)	-4.73%	17
GTE OF THE SOUTHWEST	259,818	(27,185)	-10.46%	44
GTE MIDWEST OPERATIONS	462,641	(51,577)	-11.15%	45
HAWAIIAN TELEPHONE CO.	104,207	(3,248)	-3.12%	5
LINCOLN TELEPHONE COMPANY	29,192	(1,619)	-5.55%	36
ROCHESTER TELEPHONE CORPORATION	50,093	(2,626)	-5.24%	30
SOUTHERN NEW ENGLAND TELEPHONE	354,479	(20,320)	-5.73%	38
UNITED OF FLORIDA	193,353	(9,392)	-4.86%	20
UNITED OF INDIANA	30,691	(1,615)	-5.26%	32
CAROLINA TEL. & TEL.	91,695	(4,219)	-4.60%	16
UNITED OF OHIO	59,892	(3,041)	-5.08%	27
UNITED OF PENN.	28,350	(1,637)	-5.77%	39
UNITED INTER-MOUNTAIN	31,487	(1,075)	-3.41%	6

CDS4
12/12/87

CDS4B
ANALYSIS OF IMPACT OF PENSION ACCRUALS
(DOLLARS IN THOUSANDS)

(TEST YEAR = 1/88-12/88)

COMPANY	TOTAL REGULATED IS ACCESS TEST YEAR REVENUE REQUIREMENT COL A	REVENUE REQUIREMENT DUE TO IMPACT OF PENSION ACCRUALS COL B	PERCENTAGE CHANGE OF IMPACT OF PENSION ACCRUALS COL C = B / A	RANK
AMERITECH	1,895,437	(6,013)	-0.32%	5
BELL ATLANTIC	2,429,090	4,329	0.18%	1
BELL SOUTH	2,803,027	(6,766)	-0.24%	4
NYNEX	3,039,200	(17,770)	-0.58%	8
PACIFIC	1,788,955	(1,802)	-0.10%	3
SOUTHWESTERN BELL TEL. CO.	1,793,397	(36,668)	-2.04%	11
U.S. WEST	2,329,458	(12,556)	-0.54%	7
CENTRAL TELEPHONE CO.	91,489	0	0.00%	2
CONTINENTAL TELEPHONE CO.	150,902	(1,633)	-1.08%	10
GENERAL TELEPHONE OPERATING COs	2,098,117	(7,801)	-0.37%	6
UNITED TELEPHONE SYSTEM	435,468	(2,769)	-0.64%	9
TOTAL DIVESTED BELL OCs	16,078,564	(77,246)	-0.48%	
TOTAL ICOs	3,300,833	(17,807)	-0.54%	
TOTAL BOCs + ICOs	19,379,397	(95,053)	-0.49%	
ILLINOIS BELL	624,765	(1,837)	-0.29%	21
INDIANA BELL	224,658	(109)	-0.05%	16
MICHIGAN BELL	432,464	(1,879)	-0.43%	27
OHIO BELL	399,214	(1,440)	-0.36%	23
WISCONSIN BELL	214,336	(748)	-0.35%	22
C & P (D.C.)	171,203	397	0.23%	2
C & P of MARYLAND	334,064	734	0.22%	4
C & P of VIRGINIA	370,717	857	0.23%	3
C & P OF WEST VIRGINIA	120,631	250	0.21%	5
DIAMOND STATE TEL.	67,767	48	0.07%	8
BELL OF PENNSYLVANIA	622,347	675	0.11%	7
NEW JERSEY BELL	742,361	1,368	0.18%	6
SOUTHERN BELL	1,757,313	(3,759)	-0.21%	19
SOUTH CENTRAL BELL	1,045,714	(3,007)	-0.29%	20
NEW ENGLAND TELEPHONE	980,797	(9,711)	-0.99%	38
NEW YORK TELEPHONE	2,058,403	(8,059)	-0.39%	26
PACIFIC BELL	1,724,858	(1,802)	-0.10%	17
NEVADA BELL	64,097	0	0.00%	10
SOUTHWESTERN BELL TEL. CO.	1,793,397	(36,668)	-2.04%	45
MOUNTAIN BELL	1,273,300	(6,282)	-0.49%	30
NORTHWESTERN BELL	616,121	(2,834)	-0.46%	28
PACIFIC NORTHWEST BELL	440,037	(3,440)	-0.78%	34
CENTRAL OF FLORIDA	33,046	0	0.00%	9
CENTRAL OF NEVADA	58,443	0	0.00%	14
CINCINNATI BELL TELEPHONE	91,093	0	0.00%	13
CONTEL OF CALIFORNIA	46,442	(399)	-0.86%	36
CONTEL OF NEW YORK	28,951	(197)	-0.68%	31
CONTEL OF TEXAS	25,541	(94)	-0.37%	24
CONTEL OF VIRGINIA	49,968	(943)	-1.89%	43
GTE OF CALIFORNIA	509,175	(200)	-0.04%	15
GTE OF FLORIDA	368,632	(4,746)	-1.29%	39
GTE OF THE NORTHWEST	184,521	(2,376)	-1.29%	40
GTE OF THE SOUTH	209,123	(1,740)	-0.83%	35
GTE OF THE SOUTHWEST	259,818	3,655	1.41%	1
GTE MIDWEST OPERATIONS	462,641	(921)	-0.20%	18
HAWAIIAN TELEPHONE CO.	104,207	(1,473)	-1.41%	41
LINCOLN TELEPHONE COMPANY	29,192	0	0.00%	11
ROCHESTER TELEPHONE CORPORATION	50,093	0	0.00%	12
SOUTHERN NEW ENGLAND TELEPHONE	354,479	(5,604)	-1.58%	42
UNITED OF FLORIDA	193,353	(904)	-0.47%	29
UNITED OF INDIANA	30,691	(219)	-0.71%	32
CAROLINA TEL. & TEL.	91,695	(353)	-0.38%	25
UNITED OF OHIO	59,892	(443)	-0.74%	33
UNITED OF PENN.	28,350	(551)	-1.94%	44
UNITED INTER-MOUNTAIN	31,487	(299)	-0.95%	37

COS4
12/12/87

COS4C
ANALYSIS OF DEPRECIATION AND AMORTIZATION
RESERVE IMBALANCE CORRECTIONS
(DOLLARS IN THOUSANDS)

(TEST YEAR = 1/88-12/88)

COMPANY	TOTAL REGULATED IS ACCESS TEST YEAR REVENUE REQUIREMENT	REV REQ DUE TO DEP. AND AMORT. RESV. IMBALANCE CORRECTIONS	PERCENTAGE CHANGE OF DEP. AND AMORT. RESV. IMBALANCE CORRECTIONS	RANK
	COL A	COL B	COL C = B / A	
AMERITECH	1,895,437	22,603	1.19%	7
BELL ATLANTIC	2,429,090	46,847	1.93%	5
BELL SOUTH	2,803,027	7,604	0.27%	9
NYNEX	3,039,200	70,059	2.31%	4
PACIFIC	1,788,955	101,617	5.68%	1
SOUTHWESTERN BELL TEL. CO.	1,793,397	32,349	1.80%	6
U.S. WEST	2,329,458	68,036	2.92%	2
CENTRAL TELEPHONE CO.	91,489	0	0.00%	10
CONTINENTAL TELEPHONE CO.	150,902	(647)	-0.43%	11
GENERAL TELEPHONE OPERATING COs	2,098,117	12,826	0.61%	8
UNITED TELEPHONE SYSTEM	435,468	10,493	2.41%	3
TOTAL DIVESTED BELL OCs	16,078,564	349,115	2.17%	
TOTAL ICOs	3,300,833	26,621	0.81%	
TOTAL BOCs + ICOs	19,379,397	375,736	1.94%	
ILLINOIS BELL	624,765	0	0.00%	40
INDIANA BELL	224,658	1,274	0.57%	27
MICHIGAN BELL	432,464	9,918	2.29%	11
OHIO BELL	399,214	9,763	2.45%	6
WISCONSIN BELL	214,336	1,648	0.77%	22
C & P (D.C.)	171,203	2,920	1.71%	15
C & P of MARYLAND	334,064	2,172	0.65%	23
C & P of VIRGINIA	370,717	2,359	0.64%	24
C & P OF WEST VIRGINIA	120,631	2,146	1.78%	14
DIAMOND STATE TEL.	67,767	523	0.77%	21
BELL OF PENNSYLVANIA	622,347	14,901	2.39%	8
NEW JERSEY BELL	742,361	21,826	2.94%	5
SOUTHERN BELL	1,757,313	(1,219)	-0.07%	43
SOUTH CENTRAL BELL	1,045,714	8,823	0.84%	20
NEW ENGLAND TELEPHONE	980,797	22,130	2.26%	12
NEW YORK TELEPHONE	2,058,403	47,929	2.33%	9
PACIFIC BELL	1,724,858	100,146	5.81%	2
NEVADA BELL	64,097	1,471	2.29%	10
SOUTHWESTERN BELL TEL. CO.	1,793,397	32,349	1.80%	13
MOUNTAIN BELL	1,273,300	51,816	4.07%	3
NORTHWESTERN BELL	616,121	8,787	1.43%	17
PACIFIC NORTHWEST BELL	440,037	7,433	1.69%	16
CENTRAL OF FLORIDA	33,046	0	0.00%	31
CENTRAL OF NEVADA	58,443	0	0.00%	36
CINCINNATI BELL TELEPHONE	91,093	528	0.58%	26
CONTEL OF CALIFORNIA	46,442	(647)	-1.39%	45
CONTEL OF NEW YORK	28,951	0	0.00%	39
CONTEL OF TEXAS	25,541	0	0.00%	35
CONTEL OF VIRGINIA	49,968	0	0.00%	32
GTE OF CALIFORNIA	509,175	6,511	1.28%	18
GTE OF FLORIDA	368,632	518	0.14%	29
GTE OF THE NORTHWEST	184,521	4,465	2.42%	7
GTE OF THE SOUTH	209,123	(540)	-0.26%	44
GTE OF THE SOUTHWEST	259,818	1,599	0.62%	25
GTE MIDWEST OPERATIONS	462,641	274	0.06%	30
HAWAIIAN TELEPHONE CO.	104,207	(1)	-0.00%	42
LINCOLN TELEPHONE COMPANY	29,192	0	0.00%	37
ROCHESTER TELEPHONE CORPORATION	50,093	0	0.00%	33
SOUTHERN NEW ENGLAND TELEPHONE	354,479	3,421	0.97%	19
UNITED OF FLORIDA	193,353	5,860	3.03%	4
UNITED OF INDIANA	30,691	0	0.00%	41
CAROLINA TEL. & TEL.	91,695	0	0.00%	38
UNITED OF OHIO	59,892	4,549	7.60%	1
UNITED OF PENN.	28,350	0	0.00%	34
UNITED INTER-MOUNTAIN	31,487	84	0.27%	28

COS4
12/12/87

COS4D
ANALYSIS OF THE IMPACT OF PART 32, 36 AND CONFORMANCE 69 COMPARED TO HYPOTHETICAL PART 31, 67, 69 (DOLLARS IN THOUSANDS)

(TEST YEAR = 1/88-12/88)

COMPANY	TOTAL REGULATED IS ACCESS TEST YEAR REVENUE REQUIREMENT COL A	REV REQ DUE TO IMPACT OF PART 32, 36, CONF. 69/ HYPO 31,67,69 COL B	PERCENTAGE CHANGE OF IMPACT OF PARTS 32,36, CONF. 69/ HYPO 31,67,69 COL C	RANK
AMERITECH	1,895,437	39,778	2.10%	6
BELL ATLANTIC	2,429,090	42,856	1.76%	7
BELL SOUTH	2,803,027	66,223	2.36%	5
NYNEX	3,039,200	86,224	2.84%	3
PACIFIC	1,788,955	78,366	4.38%	2
SOUTHWESTERN BELL TEL. CO.	1,793,397	4,878	0.27%	10
U.S. WEST	2,329,458	108,815	4.67%	1
CENTRAL TELEPHONE CO.	91,489	10	0.01%	11
CONTINENTAL TELEPHONE CO.	150,902	2,424	1.61%	8
GENERAL TELEPHONE OPERATING COs	2,098,117	54,063	2.58%	4
UNITED TELEPHONE SYSTEM	435,468	2,104	0.48%	9
TOTAL DIVESTED BELL OCs	16,078,564	427,140	2.66%	
TOTAL ICOs	3,300,833	79,312	2.40%	
TOTAL BOCs + ICOs	19,379,397	506,452	2.61%	
ILLINOIS BELL	624,765	(2,695)	-0.43%	40
INDIANA BELL	224,658	7,207	3.21%	18
MICHIGAN BELL	432,464	14,421	3.33%	16
OHIO BELL	399,214	15,274	3.83%	13
WISCONSIN BELL	214,336	5,571	2.60%	21
C & P (D.C.)	171,203	(7,402)	-4.32%	45
C & P of MARYLAND	334,064	(776)	-0.23%	38
C & P of VIRGINIA	370,717	8,331	2.25%	22
C & P OF WEST VIRGINIA	120,631	(27)	-0.02%	37
DIAMOND STATE TEL.	67,767	779	1.15%	29
BELL OF PENNSYLVANIA	622,347	26,527	4.26%	10
NEW JERSEY BELL	742,361	15,424	2.08%	25
SOUTHERN BELL	1,757,313	50,696	2.88%	20
SOUTH CENTRAL BELL	1,045,714	15,527	1.48%	27
NEW ENGLAND TELEPHONE	980,797	(3,676)	-0.37%	39
NEW YORK TELEPHONE	2,058,403	89,900	4.37%	9
PACIFIC BELL	1,724,858	77,691	4.50%	7
NEVADA BELL	64,097	675	1.05%	30
SOUTHWESTERN BELL TEL. CO.	1,793,397	4,878	0.27%	35
MOUNTAIN BELL	1,273,300	62,803	4.93%	5
NORTHWESTERN BELL	616,121	30,210	4.90%	6
PACIFIC NORTHWEST BELL	440,037	15,802	3.59%	14
CENTRAL OF FLORIDA	33,046	284	0.86%	33
CENTRAL OF NEVADA	58,443	(274)	-0.47%	41
CINCINNATI BELL TELEPHONE	91,093	6,110	6.71%	2
CONTEL OF CALIFORNIA	46,442	939	2.02%	26
CONTEL OF NEW YORK	28,951	1,286	4.44%	8
CONTEL OF TEXAS	25,541	(267)	-1.05%	43
CONTEL OF VIRGINIA	49,968	466	0.93%	32
GTE OF CALIFORNIA	509,175	3,807	0.75%	34
GTE OF FLORIDA	368,632	3,694	1.00%	31
GTE OF THE NORTHWEST	184,521	6,541	3.54%	15
GTE OF THE SOUTH	209,123	4,382	2.10%	24
GTE OF THE SOUTHWEST	259,818	10,426	4.01%	12
GTE MIDWEST OPERATIONS	462,641	18,846	4.07%	11
HAWAIIAN TELEPHONE CO.	104,207	6,367	6.11%	3
LINCOLN TELEPHONE COMPANY	29,192	627	2.15%	29
ROCHESTER TELEPHONE CORPORATION	50,093	2,476	4.94%	4
SOUTHERN NEW ENGLAND TELEPHONE	354,479	11,498	3.24%	17
UNITED OF FLORIDA	193,353	(1,499)	-0.78%	42
UNITED OF INDIANA	30,691	372	1.21%	28
CAROLINA TEL. & TEL.	91,695	144	0.16%	36
UNITED OF OHIO	59,892	1,800	3.01%	19
UNITED OF PENN.	28,350	2,276	8.03%	1
UNITED INTER-MOUNTAIN	31,487	(989)	-3.14%	44

COSSA
12/12/87

ANALYSIS OF PAST YEAR COST OF SERVICE ACCESS OVEREARNINGS
(PYCOS DOLLARS IN THOUSAND)
7/86 - 6/87

COMPANY	PYCOS ACCESS REVENUE REQUIREMENT COL A	PYCOS ACCESS REVENUES COL B	PYCOS OVEREARNINGS C = B - A	PERCENTAGE CHANGE OF PYCOS OVEREARNINGS D = C/A	RANK
AMERITECH	1,923,455	1,857,636	(65,819)	-3.42%	11
BELL ATLANTIC	2,323,552	2,293,614	(29,938)	-1.29%	7
BELL SOUTH	2,729,217	2,720,504	(8,713)	-0.32%	6
NYNEX	2,883,204	2,841,091	(42,113)	-1.46%	8
PACIFIC	1,722,535	1,721,819	(716)	-0.04%	5
SOUTHWESTERN BELL TEL. CO.	1,899,373	1,900,596	1,223	0.06%	4
U.S. WEST	2,241,687	2,292,315	50,628	2.26%	2
CENTRAL TELEPHONE CO.	88,553	86,880	(1,673)	-1.89%	9
CONTINENTAL TELEPHONE CO.	145,867	150,198	4,331	2.97%	1
GENERAL TELEPHONE OPERATING COs	1,966,081	1,907,949	(58,132)	-2.96%	10
UNITED TELEPHONE SYSTEM	426,794	427,580	786	0.18%	3
TOTAL DIVESTED BELL OCs	15,723,023	15,627,575	(95,448)	-0.61%	
TOTAL ICOs	3,126,479	3,067,233	(59,246)	-1.89%	
TOTAL BOCs + ICOs	18,849,502	18,694,808	(154,694)	-0.82%	
ILLINOIS BELL	678,197	638,334	(39,863)	-5.88%	44
INDIANA BELL	228,125	230,005	1,880	0.82%	12
MICHIGAN BELL	395,040	377,763	(17,277)	-4.37%	42
OHIO BELL	389,900	384,169	(5,731)	-1.47%	32
WISCONSIN BELL	232,193	227,365	(4,828)	-2.08%	38
C & P(D.C.)	168,770	168,683	(87)	-0.05%	19
C & P of MARYLAND	329,175	317,977	(11,198)	-3.40%	40
C & P of VIRGINIA	354,845	351,018	(3,827)	-1.08%	29
C & P OF WEST VIRGINIA	116,429	118,593	2,164	1.86%	7
DIAMOND STATE TEL.	64,175	64,807	632	0.98%	11
BELL OF PENNSYLVANIA	595,336	585,176	(10,160)	-1.71%	34
NEW JERSEY BELL	694,822	687,358	(7,464)	-1.07%	28
SOUTHERN BELL	1,715,136	1,718,191	3,055	0.18%	14
SOUTH CENTRAL BELL	1,014,081	1,002,313	(11,768)	-1.16%	31
NEW ENGLAND TELEPHONE	936,742	934,444	(2,298)	-0.25%	21
NEW YORK TELEPHONE	1,946,462	1,906,646	(39,816)	-2.05%	37
PACIFIC BELL	1,651,500	1,651,567	67	0.00%	16
NEVADA BELL	71,035	70,252	(783)	-1.10%	30
SOUTHWESTERN BELL TEL. CO.	1,899,373	1,900,596	1,223	0.06%	15
MOUNTAIN BELL	1,247,580	1,244,141	(3,439)	-0.28%	22
NORTHWESTERN BELL	542,501	591,349	48,848	9.00%	1
PACIFIC NORTHWEST BELL	451,606	456,825	5,219	1.16%	9
CENTRAL OF FLORIDA	32,305	30,632	(1,673)	-5.18%	43
CENTRAL OF NEVADA	56,248	56,248	0	0.00%	18
CINCINNATI BELL TELEPHONE	86,709	85,155	(1,554)	-1.79%	35
CONTEL OF CALIFORNIA	46,562	49,853	3,291	7.07%	2
CONTEL OF NEW YORK	27,063	27,144	81	0.30%	13
CONTEL OF TEXAS	24,584	25,543	959	3.90%	5
CONTEL OF VIRGINIA	47,658	47,658	0	0.00%	17
GTE OF CALIFORNIA	510,529	462,913	(47,616)	-9.33%	45
GTE OF FLORIDA	338,564	332,842	(5,722)	-1.69%	33
GTE OF THE NORTHWEST	175,781	172,581	(3,200)	-1.82%	36
GTE OF THE SOUTH	185,704	178,317	(7,387)	-3.98%	41
GTE OF THE SOUTHWEST	230,567	233,128	2,561	1.11%	10
GTE MIDWEST OPERATIONS	429,279	426,298	(2,981)	-0.69%	26
HAWAIIAN TELEPHONE CO.	95,657	101,870	6,213	6.50%	3
LINCOLN TELEPHONE COMPANY	30,404	31,729	1,325	4.36%	4
ROCHESTER TELEPHONE CORPORATION	47,173	45,938	(1,235)	-2.62%	39
SOUTHERN NEW ENGLAND TELEPHONE	334,898	331,804	(3,094)	-0.92%	27
UNITED OF FLORIDA	198,768	198,179	(589)	-0.30%	23
UNITED OF INDIANA	30,543	30,490	(53)	-0.17%	20
CAROLINA TEL. & TEL.	83,960	85,005	1,045	1.24%	8
UNITED OF OHIO	57,080	56,799	(281)	-0.49%	24
UNITED OF PENN.	26,479	26,327	(152)	-0.57%	25
UNITED INTER-MOUNTAIN	29,964	30,780	816	2.72%	6

COSSB
12/12/87

ANALYSIS OF TOTAL INTERSTATE TEST YEAR REVENUE REQUIREMENT GROWTH (ANNUALIZED 1988 / PYCOS DOLLARS IN THOUSANDS)

COMPANY	TEST YEAR REVENUE REQUIREMENT COL A	PYCOS REVENUE REQUIREMENT COL B	TEST YEAR GROWTH COL C = 2/3 * (A-B)	PERCENTAGE CHANGE OF TEST YEAR ANNUALIZED GROWTH COL D= C / B	RANK
AMERITECH	1,970,733	2,018,392	(31,773)	-1.57%	9
BELL ATLANTIC	2,466,359	2,388,233	52,084	2.18%	2
BELL SOUTH	2,871,159	2,869,215	1,296	0.05%	4
NYNEX	3,128,791	3,026,453	68,225	2.25%	1
PACIFIC	1,758,869	1,744,942	9,285	0.53%	3
SOUTHWESTERN BELL TEL. CO.	1,832,698	1,942,489	(73,194)	-3.77%	10
U.S. WEST	1,754,154	1,766,994	(8,560)	-0.48%	5
CENTRAL TELEPHONE CO.	101,041	102,875	(1,223)	-1.19%	7
CONTINENTAL TELEPHONE CO.	172,276	174,066	(1,193)	-0.69%	6
GENERAL TELEPHONE OPERATING COs	2,258,025	2,466,777	(139,168)	-5.64%	11
UNITED TELEPHONE SYSTEM	479,698	491,109	(7,607)	-1.55%	8
TOTAL DIVESTED BELL OCs	15,782,763	15,756,718	17,363	0.11%	
TOTAL ICOs	3,595,661	3,823,341	(151,787)	-3.97%	
TOTAL BOCs + ICOs	19,378,424	19,580,059	(134,423)	-0.69%	
ILLINOIS BELL	657,183	719,088	(41,270)	-5.74%	41
INDIANA BELL	233,060	243,783	(7,149)	-2.93%	31
MICHIGAN BELL	453,104	414,076	26,019	6.28%	2
OHIO BELL	405,535	407,946	(1,607)	-0.39%	23
WISCONSIN BELL	221,851	233,499	(7,765)	-3.33%	32
C & P (D.C.)	172,897	172,423	316	0.18%	22
C & P of MARYLAND	340,353	339,270	722	0.21%	21
C & P of VIRGINIA	376,614	362,003	9,741	2.69%	6
C & P OF WEST VIRGINIA	123,234	118,833	2,934	2.47%	7
DIAMOND STATE TEL.	69,355	66,327	2,019	3.04%	5
BELL OF PENNSYLVANIA	633,441	615,053	12,259	1.99%	11
NEW JERSEY BELL	750,465	714,324	24,094	3.37%	4
SOUTHERN BELL	1,799,789	1,822,233	(14,963)	-0.82%	27
SOUTH CENTRAL BELL	1,071,370	1,046,982	16,259	1.55%	14
NEW ENGLAND TELEPHONE	1,008,149	974,753	22,264	2.28%	8
NEW YORK TELEPHONE	2,120,642	2,051,700	45,961	2.24%	9
PACIFIC BELL	1,758,869	1,673,174	57,130	3.41%	3
NEVADA BELL	0	71,768	(47,845)	-66.67%	45
SOUTHWESTERN BELL TEL. CO.	1,832,698	1,942,489	(73,194)	-3.77%	34
MOUNTAIN BELL	1,286,921	1,278,859	5,375	0.42%	20
NORTHWESTERN BELL	0	0	0	ERR	1
PACIFIC NORTHWEST BELL	467,233	488,135	(13,935)	-2.85%	30
CENTRAL OF FLORIDA	40,189	41,277	(725)	-1.76%	28
CENTRAL OF NEVADA	60,852	61,598	(497)	-0.81%	26
CINCINNATI BELL TELEPHONE	107,725	105,145	1,720	1.64%	13
CONTEL OF CALIFORNIA	52,847	56,810	(2,642)	-4.65%	38
CONTEL OF NEW YORK	33,178	32,513	443	1.36%	15
CONTEL OF TEXAS	27,638	26,836	535	1.99%	12
CONTEL OF VIRGINIA	58,613	57,907	471	0.81%	18
GTE OF CALIFORNIA	521,342	582,123	(40,521)	-6.96%	43
GTE OF FLORIDA	397,526	432,444	(23,279)	-5.38%	40
GTE OF THE NORTHWEST	198,670	212,732	(9,375)	-4.41%	36
GTE OF THE SOUTH	226,201	239,329	(8,752)	-3.66%	33
GTE OF THE SOUTHWEST	283,973	275,315	5,772	2.10%	10
GTE MIDWEST OPERATIONS	510,638	563,040	(34,935)	-6.20%	42
HAWAIIAN TELEPHONE CO.	119,675	161,794	(28,079)	-17.35%	44
LINCOLN TELEPHONE COMPANY	36,688	39,467	(1,853)	-4.69%	39
ROCHESTER TELEPHONE CORPORATION	58,679	57,715	643	1.11%	16
SOUTHERN NEW ENGLAND TELEPHONE	381,529	386,187	(3,105)	-0.80%	25
UNITED OF FLORIDA	213,525	220,029	(4,336)	-1.97%	29
UNITED OF INDIANA	31,884	34,194	(1,540)	-4.50%	37
CAROLINA TEL. & TEL.	100,703	101,882	(786)	-0.77%	24
UNITED OF OHIO	65,319	64,653	444	0.69%	19
UNITED OF PENN.	31,609	31,195	276	0.88%	17
UNITED INTER-MOUNTAIN	36,658	39,156	(1,665)	-4.25%	35

CD550
12/12/87

ANALYSIS OF HYPOTHETICAL INTERSTATE TEST YEAR GROWTH
(000)

COMPANY	HYPOTHETICAL PART 31 TEST YEAR REVENUE REQUIREMENT COL A	PAST YEAR COST OF SERVICE REVENUE REQUIREMENT COL B	HYPOTHETICAL TEST YEAR GROWTH COL C= 2/3*(A - B)	PERCENTAGE CHANGE OF HYPOTHETICAL TEST YEAR GROWTH COL D= C / B	RANK
AMERITECH	1,969,532	2,018,392	(32,573)	-1.61%	7
BELL ATLANTIC	2,435,297	2,388,233	31,376	1.31%	3
BELL SOUTH	2,837,999	2,869,215	(20,811)	-0.73%	6
NYNEX	3,107,832	3,026,453	54,253	1.79%	1
PACIFIC	1,675,079	1,744,942	(46,575)	-2.67%	9
SOUTHWESTERN BELL TEL. CO.	1,825,266	1,942,489	(78,149)	-4.02%	10
U.S. WEST	1,702,204	1,766,994	(43,193)	-2.44%	8
CENTRAL TELEPHONE CO.	105,586	102,875	1,807	1.76%	2
CONTINENTAL TELEPHONE CO.	177,177	174,066	2,074	1.19%	4
GENERAL TELEPHONE OPERATING COs	2,248,947	2,466,777	(145,220)	-5.89%	11
UNITED TELEPHONE SYSTEM	487,207	491,109	(2,601)	-0.53%	5
TOTAL DIVESTED BELL OCs	15,553,209	15,756,718	(135,673)	-0.86%	
TOTAL ICOs	3,594,605	3,823,341	(152,491)	-3.99%	
TOTAL BOCs + ICOs	19,147,814	19,580,059	(288,163)	-1.47%	
ILLINOIS BELL	672,742	719,088	(30,897)	-4.30%	37
INDIANA BELL	232,473	243,783	(7,540)	-3.09%	32
MICHIGAN BELL	443,626	414,076	19,700	4.76%	2
OHIO BELL	401,018	407,946	(4,619)	-1.13%	24
WISCONSIN BELL	219,673	233,499	(9,217)	-3.95%	34
C & P (D.C.)	181,614	172,423	6,127	3.55%	3
C & P of MARYLAND	341,845	339,270	1,717	0.51%	18
C & P of VIRGINIA	368,894	362,003	4,594	1.27%	12
C & P OF WEST VIRGINIA	122,286	118,833	2,302	1.94%	11
DIAMOND STATE TEL.	68,931	66,327	1,736	2.62%	7
BELL OF PENNSYLVANIA	612,529	615,053	(1,683)	-0.27%	21
NEW JERSEY BELL	739,198	714,324	16,583	2.32%	9
SOUTHERN BELL	1,775,361	1,822,233	(31,248)	-1.71%	29
SOUTH CENTRAL BELL	1,062,638	1,046,982	10,437	1.00%	16
NEW ENGLAND TELEPHONE	1,019,402	974,753	29,766	3.05%	5
NEW YORK TELEPHONE	2,088,430	2,051,700	24,487	1.19%	15
PACIFIC BELL	1,675,079	1,673,174	1,270	0.08%	19
NEVADA BELL	0	71,768	(47,845)	-66.67%	45
SOUTHWESTERN BELL TEL. CO.	1,825,266	1,942,489	(78,149)	-4.02%	36
MOUNTAIN BELL	1,243,321	1,278,859	(23,692)	-1.85%	30
NORTHWESTERN BELL	0	0	0	ERR	1
PACIFIC NORTHWEST BELL	458,883	488,135	(19,501)	-4.00%	35
CENTRAL OF FLORIDA	41,665	41,277	259	0.63%	17
CENTRAL OF NEVADA	63,921	61,598	1,549	2.51%	8
CINCINNATI BELL TELEPHONE	102,974	105,145	(1,447)	-1.38%	25
CONTEL OF CALIFORNIA	55,575	56,810	(823)	-1.45%	26
CONTEL OF NEW YORK	33,792	32,513	853	2.62%	6
CONTEL OF TEXAS	28,070	26,836	823	3.07%	4
CONTEL OF VIRGINIA	59,740	57,907	1,222	2.11%	10
GTE OF CALIFORNIA	519,592	582,123	(41,687)	-7.16%	43
GTE OF FLORIDA	402,343	432,444	(20,067)	-4.64%	40
GTE OF THE NORTHWEST	198,910	212,732	(9,215)	-4.33%	38
GTE OF THE SOUTH	223,425	239,329	(10,603)	-4.43%	39
GTE OF THE SOUTHWEST	272,477	275,315	(1,892)	-0.69%	22
GTE MIDWEST OPERATIONS	515,675	563,040	(31,577)	-5.61%	42
HAWAIIAN TELEPHONE CO.	116,525	161,794	(30,179)	-18.65%	44
LINCOLN TELEPHONE COMPANY	36,474	39,467	(1,995)	-5.06%	41
ROCHESTER TELEPHONE CORPORATION	58,773	57,715	705	1.22%	14
SOUTHERN NEW ENGLAND TELEPHONE	377,467	386,187	(5,813)	-1.51%	27
UNITED OF FLORIDA	219,314	220,029	(477)	-0.22%	20
UNITED OF INDIANA	32,277	34,194	(1,278)	-3.74%	33
CAROLINA TEL. & TEL.	103,762	101,882	1,253	1.23%	13
UNITED OF OHIO	63,102	64,653	(1,034)	-1.60%	28
UNITED OF PENN.	30,258	31,195	(625)	-2.00%	31
UNITED INTER-MOUNTAIN	38,494	39,156	(441)	-1.13%	23

TOTAL COMPANY

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
AMERITECH	4,033,562,032	4,184,088,100	3.732
Illinois Bell	1,283,201,063	1,258,080,900	-1.958
Indiana Bell	398,061,326	420,011,000	5.514
Michigan Bell	1,124,590,804	1,204,576,000	7.112
Ohio Bell	803,601,852	853,289,000	6.183
Wisconsin Bell	424,106,987	448,131,200	5.665
BELL ATLANTIC	4,432,603,564	4,840,189,000	9.195
C&P - D. C.	190,885,412	206,597,000	8.231
C&P - Maryland	676,709,302	727,691,000	7.534
C&P - Virginia	670,110,801	741,405,000	10.639
C&P - West Virginia	223,045,049	227,858,000	2.158
Diamond State	86,632,000	98,800,000	14.046
Bell of Pennsylvania	1,318,326,000	1,375,454,000	4.333
New Jersey Bell	1,266,895,000	1,462,384,000	15.431
BELLSOUTH	4,598,701,514	4,983,480,464	8.367
Southern Bell	2,696,442,531	2,937,641,000	8.945
South Central Bell	1,902,258,983	2,045,839,464	7.548
NYNEX	5,235,060,459	5,721,858,600	9.299
New England Telephone	1,638,722,261	1,826,522,000	11.460
New York Telephone	3,596,338,198	3,895,336,600	8.314
PACIFIC BELL TOTAL	3,776,789,294	3,936,202,185	4.221
Pacific Bell - California	3,707,015,740	3,861,063,000	4.156
Pacific Bell - Nevada	69,773,554	75,139,185	7.690
SOUTHWESTERN BELL TOTAL	3,267,437,929	3,302,978,000	1.088
US WEST	3,365,689,499	3,481,226,531	3.433
Mountain States	1,653,934,476	1,734,122,547	4.848
Northwest Bell	967,145,340	961,617,984	-0.572
Pacific Northwest	744,609,683	785,486,000	5.490
TOTAL BOC	28,709,844,291	30,450,022,880	6.061

TOTAL COMPANY

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
CENTEL TOTAL	136,195,366	155,761,069	14.366
Centel - Florida	56,996,377	65,766,769	15.388
Centel - Nevada	79,198,989	89,994,300	13.631
CINCINNATI BELL	297,419,948	287,840,179	-3.221
CONTEL TOTAL	336,940,261	408,207,967	21.151
Contel - California	111,797,531	132,713,131	18.708
Contel - New York	69,892,829	82,052,444	17.398
Contel - Texas	62,587,081	72,849,241	16.397
Contel - Virginia	92,662,820	120,593,151	30.142
GTE TOTAL	4,145,486,950	4,163,778,163	0.441
GTE - California	1,304,076,031	1,214,888,470	-6.839
GTE - Florida	542,063,608	571,629,683	5.454
GTE of the Northwest	281,457,698	272,720,643	-3.104
GTE of the South	366,897,038	402,757,307	9.774
GTE of the Southwest	515,808,927	536,800,134	4.070
GTE of the Midwest	973,571,598	995,449,093	2.247
Hawaiian Telephone	161,612,050	169,532,833	4.901
LINCOLN TELEPHONE	58,199,750	64,786,615	11.318
ROCHESTER TELEPHONE	98,391,117	106,685,000	8.430
SOUTHERN NEW ENGLAND	674,830,773	675,993,600	0.172
UTS TOTAL	721,517,403	849,355,191	17.718
UTS - Florida	236,959,897	297,561,000	25.574
UTS - Indiana	56,010,871	63,104,754	12.665
UTS - North Carolina	183,943,614	208,902,000	13.568
UTS - Ohio	123,272,572	136,787,437	10.963
UTS - Pennsylvania	58,222,505	67,870,000	16.570
United Inter-Mountain	63,107,944	75,130,000	19.050
TOTAL INDEPENDENTS	6,468,981,568	6,712,407,784	3.763

TOTAL COMPANY

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
AMERITECH	4,033,562,032	4,184,088,100	3.732
Illinois Bell	1,283,201,063	1,258,080,900	-1.958
Indiana Bell	398,061,326	420,011,000	5.514
Michigan Bell	1,124,590,804	1,204,576,000	7.112
Ohio Bell	803,601,852	853,289,000	6.183
Wisconsin Bell	424,106,987	448,131,200	5.665
BELL ATLANTIC	4,432,603,564	4,840,189,000	9.195
C&P - D. C.	190,885,412	206,597,000	8.231
C&P - Maryland	676,709,302	727,691,000	7.536
C&P - Virginia	670,110,801	741,405,000	10.639
C&P - West Virginia	223,045,049	227,858,000	2.158
Diamond State	86,632,000	98,800,000	14.046
Bell of Pennsylvania	1,318,326,000	1,375,454,000	4.333
New Jersey Bell	1,266,895,000	1,462,384,000	15.431
BELLSOUTH	4,598,701,514	4,983,480,464	8.367
Southern Bell	2,696,442,531	2,937,641,000	8.945
South Central Bell	1,902,258,983	2,045,839,464	7.548
NYNEX	5,235,060,459	5,721,858,600	9.299
New England Telephone	1,638,722,261	1,826,522,000	11.460
New York Telephone	3,596,338,198	3,895,336,600	8.314
PACIFIC BELL TOTAL	3,776,789,294	3,936,202,185	4.221
Pacific Bell - California	3,707,015,740	3,861,063,000	4.156
Pacific Bell - Nevada	69,773,554	75,139,185	7.690
SOUTHWESTERN BELL TOTAL	3,267,437,929	3,302,978,000	1.088
US WEST	3,365,689,499	3,481,226,531	3.433
Mountain States	1,653,934,476	1,734,122,547	4.848
Northwest Bell	967,145,340	961,617,984	-0.572
Pacific Northwest	744,609,683	785,486,000	5.490
TOTAL BOC	28,709,844,291	30,450,022,880	6.061

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TOTAL COMPANY

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
AMERITECH	4,184,088,100	4,479,179,615	7.053
Illinois Bell	1,258,080,900	1,346,437,615	7.023
Indiana Bell	420,011,000	479,369,000	14.132
Michigan Bell	1,204,576,000	1,274,175,000	5.778
Ohio Bell	853,289,000	897,299,000	5.158
Wisconsin Bell	448,131,200	481,899,000	7.535
BELL ATLANTIC	4,840,189,000	5,206,276,000	7.563
C&P - D. C.	206,597,000	223,581,000	8.221
C&P - Maryland	727,691,000	783,608,000	7.684
C&P - Virginia	741,405,000	797,723,000	7.596
C&P - West Virginia	227,858,000	243,118,000	6.697
Diamond State	98,800,000	102,701,000	3.948
Bell of Pennsylvania	1,375,454,000	1,485,123,000	7.973
New Jersey Bell	1,462,384,000	1,570,422,000	7.388
BELLSOUTH	4,983,480,464	5,282,837,139	6.007
Southern Bell	2,937,641,000	3,115,516,063	6.055
South Central Bell	2,045,839,464	2,167,321,076	5.938
NYNEX	5,721,858,600	6,000,044,000	4.862
New England Telephone	1,826,522,000	1,941,896,000	6.317
New York Telephone	3,895,336,600	4,058,148,000	4.180
PACIFIC BELL TOTAL	3,936,202,185	4,233,525,159	7.554
Pacific Bell - California	3,861,063,000	4,154,315,000	7.595
Pacific Bell - Nevada	75,139,185	79,210,159	5.418
SOUTHWESTERN BELL TOTAL	3,302,978,000	3,376,664,574	2.231
US WEST	3,481,226,531	3,696,785,806	6.192
Mountain States	1,734,122,547	1,826,777,538	5.343
Northwest Bell	961,617,984	1,015,978,268	5.653
Pacific Northwest	785,486,000	854,030,000	8.726
TOTAL BOC	30,450,022,880	32,275,312,293	5.994

TOTAL COMPANY

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
CENTEL TOTAL	155,761,069	169,321,266	8.706
Centel - Florida	65,766,769	71,688,966	9.005
Centel - Nevada	89,994,300	97,632,300	8.487
CINCINNATI BELL	287,840,179	299,246,237	3.963
CONTEL TOTAL	408,207,967	426,292,356	4.430
Contel - California	132,713,131	140,278,221	5.700
Contel - New York	82,052,444	86,109,773	4.945
Contel - Texas	72,849,241	75,157,623	3.169
Contel - Virginia	120,593,151	124,746,739	3.444
GTE TOTAL	4,163,778,163	4,259,775,686	2.306
GTE - California	1,214,888,470	1,227,354,196	1.026
GTE - Florida	571,629,683	571,292,948	-0.059
GTE of the Northwest	272,720,643	278,351,309	2.065
GTE of the South	402,757,307	416,373,190	3.381
GTE of the Southwest	536,800,134	549,342,858	2.337
GTE of the Midwest	995,449,093	1,033,124,221	3.785
Hawaiian Telephone	169,532,833	183,936,964	8.496
LINCOLN TELEPHONE	64,786,615	70,185,547	8.333
ROCHESTER TELEPHONE	106,685,000	122,442,202	14.770
SOUTHERN NEW ENGLAND	675,993,600	715,651,000	5.867
UTS TOTAL	849,355,191	903,313,437	6.353
UTS - Florida	297,561,000	316,331,907	6.308
UTS - Indiana	63,104,754	67,311,823	6.667
UTS - North Carolina	208,902,000	220,901,650	5.744
UTS - Ohio	136,787,437	145,586,029	6.432
UTS - Pennsylvania	67,870,000	75,381,094	11.067
United Inter-Mountain	75,130,000	77,800,934	3.555
TOTAL INDEPENDENTS	6,712,407,784	6,966,227,731	3.781

TOTAL COMPANY

PLANT
(LINES 600-670)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
AMERITECH	21,898,165,032	23,836,656,451	8.852
Illinois Bell	6,837,730,701	7,470,599,451	9.256
Indiana Bell	2,385,098,428	2,656,050,000	11.360
Michigan Bell	5,922,987,716	6,482,049,000	9.439
Ohio Bell	4,419,477,194	4,736,035,000	7.163
Wisconsin Bell	2,332,870,993	2,491,923,000	6.818
BELL ATLANTIC	22,994,885,889	25,637,018,000	11.490
C&P - D. C.	1,083,395,596	1,178,905,000	8.816
C&P - Maryland	3,650,768,862	4,047,432,000	10.865
C&P - Virginia	3,614,080,325	4,062,905,000	12.419
C&P - West Virginia	1,253,933,106	1,337,331,000	6.651
Diamond State	490,600,000	549,941,000	12.096
Bell of Pennsylvania	6,557,899,000	7,403,301,000	12.891
New Jersey Bell	6,344,209,000	7,057,203,000	11.239
BELLSOUTH	28,238,398,575	31,393,571,500	11.173
Southern Bell	15,857,070,865	17,873,051,000	12.713
South Central Bell	12,381,327,710	13,520,520,500	9.201
NYNEX	23,813,311,083	25,853,861,134	8.569
New England Telephone	8,259,030,413	9,070,300,000	9.823
New York Telephone	15,554,280,670	16,783,561,134	7.903
PACIFIC BELL TOTAL	21,233,112,121	22,970,643,470	8.183
Pacific Bell - California	20,839,644,235	22,549,759,000	8.206
Pacific Bell - Nevada	393,467,886	420,884,470	6.968
SOUTHWESTERN BELL TOTAL	21,133,070,197	23,075,084,000	9.189
US WEST	20,580,166,429	22,400,995,093	8.847
Mountain States	9,996,239,899	10,902,950,096	9.071
Northwest Bell	5,995,842,720	6,534,095,997	8.977
Pacific Northwest	4,588,083,810	4,963,949,000	8.192
TOTAL BOC	159,891,109,326	175,167,829,648	9.554

TOTAL COMPANY

PLANT
(LINES 600-670)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
CENTEL TOTAL	813,798,976	894,195,869	9.879
Centel - Florida	371,329,685	420,189,921	13.158
Centel - Nevada	442,469,291	474,005,948	7.127
CINCINNATI BELL	1,095,155,308	1,176,107,909	7.392
CONTEL TOTAL	1,838,045,856	2,033,803,775	10.650
Contel - California	541,498,278	589,841,072	8.928
Contel - New York	379,678,298	423,415,927	11.520
Contel - Texas	376,959,690	424,812,825	12.694
Contel - Virginia	539,909,590	595,733,951	10.340
GTE TOTAL	22,909,347,118	24,734,394,477	7.966
GTE - California	6,149,953,085	6,639,173,762	7.955
GTE - Florida	2,818,436,926	3,218,143,096	14.182
GTE of the Northwest	1,768,079,017	1,896,960,914	7.289
GTE of the South	2,102,986,102	2,290,931,620	8.937
GTE of the Southwest	3,048,836,097	3,359,768,009	10.198
GTE of the Midwest	5,907,572,238	6,158,891,627	4.254
Hawaiian Telephone	1,113,483,653	1,170,525,449	5.123
LINCOLN TELEPHONE	343,411,186	373,689,612	8.817
ROCHESTER TELEPHONE	584,849,501	639,205,000	9.294
SOUTHERN NEW ENGLAND	2,726,546,329	3,215,467,500	17.932
UTS TOTAL	4,697,621,241	4,939,320,098	5.145
UTS - Florida	1,578,272,160	1,713,518,226	8.569
UTS - Indiana	356,869,875	370,998,999	3.959
UTS - North Carolina	1,121,095,998	1,178,149,438	5.089
UTS - Ohio	775,655,763	777,496,000	0.237
UTS - Pennsylvania	431,269,483	469,743,823	8.921
United Inter-Mountain	434,457,962	429,413,612	-1.161
TOTAL INDEPENDENTS	35,008,775,515	38,006,184,240	8.562

TOTAL COMPANY

PLANT
(LINES 600-670)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
AMERITECH	23,636,656,451	23,897,362,364	0.255
Illinois Bell	7,470,599,451	7,475,090,364	0.060
Indiana Bell	2,656,050,000	2,660,645,000	0.173
Michigan Bell	6,482,049,000	6,500,882,000	0.291
Ohio Bell	4,736,035,000	4,770,219,000	0.722
Wisconsin Bell	2,491,923,000	2,490,506,000	-0.057
BELL ATLANTIC	25,637,018,000	25,635,192,000	-0.007
C&P - D. C.	1,178,905,000	1,176,090,000	-0.239
C&P - Maryland	4,047,432,000	4,037,049,000	-0.257
C&P - Virginia	4,062,905,000	4,051,693,000	-0.276
C&P - West Virginia	1,337,331,000	1,335,594,000	-0.130
Diamond State	549,941,000	550,050,000	0.020
Bell of Pennsylvania	7,403,301,000	7,399,302,000	-0.054
New Jersey Bell	7,057,203,000	7,085,414,000	0.400
BELLSOUTH	31,393,571,500	31,484,327,100	0.289
Southern Bell	17,873,051,000	17,948,037,000	0.420
South Central Bell	13,520,520,500	13,536,290,100	0.117
NYNEX	25,853,861,134	25,953,091,001	0.384
New England Telephone	9,070,300,000	9,127,532,001	0.631
New York Telephone	16,783,561,134	16,825,559,000	0.250
PACIFIC BELL TOTAL	22,970,643,470	23,029,794,224	0.258
Pacific Bell - California	22,549,759,000	22,609,028,000	0.263
Pacific Bell - Nevada	420,884,470	420,766,224	-0.028
SOUTHWESTERN BELL TOTAL	23,075,084,000	23,142,015,000	0.290
US WEST	22,400,995,093	22,418,275,123	0.077
Mountain States	10,902,950,096	10,939,036,109	0.331
Northwest Bell	6,534,095,997	6,523,927,014	-0.156
Pacific Northwest	4,963,949,000	4,955,312,000	-0.174
TOTAL BOC	175,167,829,648	175,560,036,812	0.224

TOTAL COMPANY

PLANT
(LINES 600-670)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
CENTEL TOTAL	894,195,869	889,988,599	-0.471
Centel - Florida	420,189,921	418,682,399	-0.359
Centel - Nevada	474,005,948	471,306,200	-0.570
CINCINNATI BELL	1,176,107,909	1,196,889,079	1.767
CONTEL TOTAL	2,033,803,775	2,032,436,411	-0.067
Contel - California	589,841,072	589,378,503	-0.078
Contel - New York	423,415,927	423,415,926	-0.000
Contel - Texas	424,812,825	423,908,505	-0.213
Contel - Virginia	595,733,951	595,733,477	-0.000
GTE TOTAL	24,734,394,477	24,634,161,119	-0.405
GTE - California	6,639,173,762	6,618,410,002	-0.313
GTE - Florida	3,218,143,096	3,206,010,519	-0.377
GTE of the Northwest	1,896,960,914	1,876,249,525	-1.092
GTE of the South	2,290,931,620	2,285,953,556	-0.217
GTE of the Southwest	3,359,768,009	3,349,169,026	-0.315
GTE of the Midwest	6,158,891,627	6,132,236,995	-0.433
Hawaiian Telephone	1,170,525,449	1,166,131,496	-0.375
LINCOLN TELEPHONE	373,689,612	373,689,612	0.000
ROCHESTER TELEPHONE	639,205,000	663,429,084	3.790
SOUTHERN NEW ENGLAND	3,215,467,500	3,219,251,000	0.118
UTS TOTAL	4,939,320,098	4,921,333,590	-0.364
UTS - Florida	1,713,518,226	1,705,970,224	-0.440
UTS - Indiana	370,998,999	369,228,999	-0.477
UTS - North Carolina	1,178,149,438	1,174,258,437	-0.330
UTS - Ohio	777,496,000	777,838,833	0.044
UTS - Pennsylvania	469,743,823	466,207,824	-0.753
United Inter-Mountain	429,413,612	427,829,273	-0.369
TOTAL INDEPENDENTS	38,006,184,240	37,931,178,494	-0.197

TOTAL SUBJECT TO SEPARATION

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
AMERITECH	3,962,316,749	4,031,406,500	1.744
Illinois Bell	1,267,500,740	1,223,569,300	-3.466
Indiana Bell	395,024,275	395,229,000	0.052
Michigan Bell	1,097,859,003	1,149,676,000	4.720
Ohio Bell	786,384,752	826,056,000	5.045
Wisconsin Bell	415,547,979	436,876,200	5.133
BELL ATLANTIC	4,348,620,315	4,715,758,000	8.443
C&P - D. C.	186,063,064	198,867,000	6.882
C&P - Maryland	664,871,031	713,915,000	7.376
C&P - Virginia	659,118,164	722,878,000	9.674
C&P - West Virginia	220,022,056	223,800,000	1.717
Diamond State	84,590,000	95,925,000	13.400
Bell of Pennsylvania	1,290,101,000	1,334,311,000	3.427
New Jersey Bell	1,243,855,000	1,426,062,000	14.649
BELLSOUTH	4,646,243,614	4,861,894,244	4.641
Southern Bell	2,753,901,287	2,889,856,000	4.937
South Central Bell	1,892,342,327	1,972,038,244	4.211
NYNEX	5,216,411,849	5,593,652,555	7.232
New England Telephone	1,630,408,732	1,785,184,955	9.493
New York Telephone	3,586,003,117	3,808,467,600	6.204
PACIFIC BELL TOTAL	3,754,068,579	3,916,234,185	4.320
Pacific Bell - California	3,685,701,121	3,843,793,000	4.289
Pacific Bell - Nevada	68,367,458	72,441,185	5.959
SOUTHWESTERN BELL TOTAL	3,238,881,277	3,242,343,319	0.107
US WEST	3,350,507,603	3,386,912,531	1.087
Mountain States	1,648,790,343	1,695,644,547	2.842
Northwest Bell	960,261,037	927,316,984	-3.431
Pacific Northwest	741,456,223	763,951,000	3.034
TOTAL BOC	28,517,049,986	29,748,201,334	4.317

TOTAL SUBJECT TO SEPARATION

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1E31	PART 31 1P31	1P31 % INCR OVER 1E31
CENTEL TOTAL	136,195,366	153,948,269	13.035
Centel - Florida	56,996,377	65,535,869	14.983
Centel - Nevada	79,198,989	88,412,400	11.633
CINCINNATI BELL	232,827,818	209,521,347	-10.010
CONTEL TOTAL	333,955,467	381,832,889	14.336
Contel - California	111,797,531	121,844,158	8.986
Contel - New York	68,365,706	76,737,918	12.246
Contel - Texas	62,587,081	69,523,458	11.083
Contel - Virginia	91,205,149	113,727,355	24.694
GTE TOTAL	4,072,776,036	4,126,798,799	1.326
GTE - California	1,279,853,312	1,214,888,470	-5.076
GTE - Florida	540,852,757	571,629,683	5.690
GTE of the Northwest	276,745,300	272,527,579	-1.524
GTE of the South	360,953,105	399,738,972	10.745
GTE of the Southwest	505,648,367	530,671,395	4.949
GTE of the Midwest	947,774,657	975,405,867	2.915
Hawaiian Telephone	160,948,538	161,936,833	0.614
LINCOLN TELEPHONE	58,199,750	56,874,252	-2.277
ROCHESTER TELEPHONE	98,321,831	106,685,000	8.506
SOUTHERN NEW ENGLAND	669,343,810	665,332,600	-0.599
UTS TOTAL	660,697,995	747,478,754	13.135
UTS - Florida	232,247,136	268,644,000	15.672
UTS - Indiana	48,413,828	53,928,754	11.391
UTS - North Carolina	164,051,272	180,711,000	10.155
UTS - Ohio	106,360,978	117,979,000	10.923
UTS - Pennsylvania	54,141,035	58,293,000	7.669
United Inter-Mountain	55,483,746	67,923,000	22.420
TOTAL INDEPENDENTS	6,262,318,073	6,448,471,910	2.973

TOTAL SUBJECT TO SEPARATION

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
AMERITECH	4,031,406,500	4,316,080,115	7.061
Illinois Bell	1,223,569,300	1,309,756,115	7.044
Indiana Bell	395,229,000	451,619,000	14.268
Michigan Bell	1,149,676,000	1,216,327,000	5.797
Ohio Bell	826,056,000	867,951,000	5.072
Wisconsin Bell	436,876,200	470,427,000	7.680
BELL ATLANTIC	4,715,758,000	5,078,345,000	7.689
C&P - D. C.	198,867,000	215,851,000	8.540
C&P - Maryland	713,915,000	769,831,000	7.832
C&P - Virginia	722,878,000	779,195,000	7.791
C&P - West Virginia	223,800,000	239,061,000	6.819
Diamond State	95,925,000	99,826,000	4.067
Bell of Pennsylvania	1,334,311,000	1,442,044,000	8.074
New Jersey Bell	1,426,062,000	1,532,537,000	7.466
BELLSOUTH	4,861,894,244	5,154,318,945	6.015
Southern Bell	2,889,856,000	3,063,640,711	6.014
South Central Bell	1,972,038,244	2,090,678,234	6.016
NYNEX	5,593,652,555	5,871,234,955	4.962
New England Telephone	1,785,184,955	1,900,558,955	6.463
New York Telephone	3,808,467,500	3,970,676,000	4.259
PACIFIC BELL TOTAL	3,916,234,185	4,211,950,159	7.551
Pacific Bell - California	3,843,793,000	4,135,438,000	7.587
Pacific Bell - Nevada	72,441,185	76,512,159	5.620
SOUTHWESTERN BELL TOTAL	3,242,343,319	3,309,800,834	2.081
US WEST	3,386,912,531	3,601,420,835	6.333
Mountain States	1,695,644,547	1,788,299,538	5.464
Northwest Bell	927,316,984	981,328,297	5.824
Pacific Northwest	763,951,000	831,793,000	8.880
TOTAL BOC	29,748,201,334	31,543,150,843	6.034

TOTAL SUBJECT TO SEPARATION

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
CENTEL TOTAL	153,948,269	167,508,666	8.808
Centel - Florida	65,535,869	71,458,066	9.037
Centel - Nevada	88,412,400	96,050,600	8.639
CINCINNATI BELL	209,521,347	221,018,405	5.487
CONTEL TOTAL	381,832,889	398,490,350	4.363
Contel - California	121,844,158	128,065,954	5.106
Contel - New York	76,737,918	80,795,247	5.287
Contel - Texas	69,523,458	71,748,206	3.200
Contel - Virginia	113,727,355	117,880,943	3.652
GTE TOTAL	4,126,798,799	4,176,356,833	1.201
GTE - California	1,214,888,470	1,225,712,971	0.891
GTE - Florida	571,629,683	571,292,948	-0.059
GTE of the Northwest	272,527,579	270,352,759	-0.798
GTE of the South	399,738,972	397,274,238	-0.617
GTE of the Southwest	530,671,395	539,913,604	1.742
GTE of the Midwest	975,405,867	1,008,899,349	3.434
Hawaiian Telephone	161,936,833	162,910,964	0.602
LINCOLN TELEPHONE	56,874,252	61,883,366	8.807
ROCHESTER TELEPHONE	106,685,000	112,827,902	5.758
SOUTHERN NEW ENGLAND	665,332,600	704,990,000	5.961
UTS TOTAL	747,478,754	800,948,274	7.153
UTS - Florida	268,644,000	287,355,907	6.965
UTS - Indiana	53,928,754	58,033,823	7.612
UTS - North Carolina	180,711,000	192,394,650	6.465
UTS - Ohio	117,979,000	126,766,592	7.448
UTS - Pennsylvania	58,293,000	65,745,094	12.784
United Inter-Mountain	67,923,000	70,652,208	4.018
TOTAL INDEPENDENTS	6,448,471,910	6,644,023,796	3.033

TOTAL COMPANY SUBJECT TO SEPARATION

PLANT
(LINES 600-670)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
AMERITECH	21,635,065,692	23,631,999,563	9.230
Illinois Bell	6,782,296,515	7,433,730,563	9.605
Indiana Bell	2,349,024,643	2,635,339,000	12.189
Michigan Bell	5,853,190,191	6,412,043,000	9.548
Ohio Bell	4,366,774,015	4,679,190,000	7.154
Wisconsin Bell	2,283,780,328	2,471,697,000	8.228
BELL ATLANTIC	22,686,743,250	25,326,595,000	11.636
C&P - D. C.	1,077,087,675	1,160,007,000	7.698
C&P - Maryland	3,612,101,548	4,006,466,000	10.918
C&P - Virginia	3,551,364,754	3,994,067,000	12.466
C&P - West Virginia	1,229,288,273	1,321,755,000	7.522
Diamond State	486,327,000	543,444,000	11.745
Bell of Pennsylvania	6,470,569,000	7,312,040,000	13.005
New Jersey Bell	6,260,005,000	6,988,816,000	11.642
BELLSOUTH	27,906,547,298	31,078,339,500	11.366
Southern Bell	15,715,648,889	17,763,948,000	13.034
South Central Bell	12,190,898,409	13,314,391,500	9.216
NYNEX	23,600,019,084	25,741,480,134	9.074
New England Telephone	8,143,753,043	8,982,784,000	10.303
New York Telephone	15,456,266,041	16,758,696,134	8.427
PACIFIC BELL TOTAL	21,058,192,991	22,877,118,996	8.638
Pacific Bell - California	20,666,301,819	22,457,960,000	8.669
Pacific Bell - Nevada	391,891,172	419,158,996	6.958
SOUTHWESTERN BELL TOTAL	20,941,657,095	22,924,321,979	9.468
US WEST	20,383,356,802	22,243,081,093	9.124
Mountain States	9,936,193,785	10,856,528,096	9.262
Northwest Bell	5,896,777,356	6,465,559,997	9.646
Pacific Northwest	4,550,385,661	4,920,993,000	8.145
TOTAL BOC	158,211,582,212	173,822,936,265	9.867

TOTAL COMPANY SUBJECT TO SEPARATION

PLANT
(LINES 600-670)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
CENTEL TOTAL	813,798,976	891,251,569	9.517
Centel - Florida	371,329,685	418,929,121	12.819
Centel - Nevada	442,469,291	472,322,448	6.747
CINCINNATI BELL	1,028,873,396	1,112,105,000	8.090
CONTEL TOTAL	1,830,694,673	2,029,178,528	10.842
Contel - California	541,498,278	588,199,072	8.624
Contel - New York	375,735,918	421,207,311	12.102
Contel - Texas	376,959,690	424,537,825	12.622
Contel - Virginia	536,500,787	595,234,320	10.948
GTE TOTAL	21,977,230,368	24,298,911,764	10.564
GTE - California	5,824,180,043	6,639,173,762	13.993
GTE - Florida	2,822,127,279	3,218,143,096	14.033
GTE of the Northwest	1,717,538,449	1,894,944,776	10.329
GTE of the South	2,022,317,874	2,252,048,620	11.360
GTE of the Southwest	2,907,904,264	3,237,925,212	11.349
GTE of the Midwest	5,588,315,207	5,923,252,849	5.994
Hawaiian Telephone	1,094,847,252	1,133,423,449	3.523
LINCOLN TELEPHONE	342,816,834	365,001,582	6.471
ROCHESTER TELEPHONE	584,849,501	639,205,000	9.294
SOUTHERN NEW ENGLAND	2,718,972,430	3,207,736,000	17.976
UTS TOTAL	4,541,791,159	4,814,347,046	6.001
UTS - Florida	1,538,888,953	1,680,621,226	9.210
UTS - Indiana	341,247,044	356,095,999	4.351
UTS - North Carolina	1,091,900,459	1,147,198,438	5.064
UTS - Ohio	739,911,891	748,786,000	1.199
UTS - Pennsylvania	414,596,426	459,430,823	10.814
United Inter-Mountain	415,246,386	422,214,560	1.678
TOTAL INDEPENDENTS	33,839,027,337	37,357,736,489	10.398

TOTAL COMPANY SUBJECT TO SEPARATION

PLANT
(LINES 600-670)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
AMERITECH	23,631,999,563	23,692,694,476	0.257
Illinois Bell	7,433,730,563	7,438,221,476	0.060
Indiana Bell	2,635,339,000	2,639,943,000	0.175
Michigan Bell	6,412,043,000	6,430,876,000	0.294
Ohio Bell	4,679,190,000	4,713,374,000	0.731
Wisconsin Bell	2,471,697,000	2,470,280,000	-0.057
BELL ATLANTIC	25,326,595,000	25,324,769,000	-0.007
C&P - D. C.	1,160,007,000	1,157,192,000	-0.243
C&P - Maryland	4,006,466,000	3,996,083,000	-0.259
C&P - Virginia	3,994,067,000	3,982,855,000	-0.281
C&P - West Virginia	1,321,755,000	1,320,018,000	-0.131
Diamond State	543,444,000	543,553,000	0.020
Bell of Pennsylvania	7,312,040,000	7,308,041,000	-0.055
New Jersey Bell	6,988,816,000	7,017,027,000	0.404
BELLSOUTH	31,078,339,500	31,054,682,765	-0.076
Southern Bell	17,763,948,000	17,723,821,763	-0.226
South Central Bell	13,314,391,500	13,330,861,002	0.124
NYNEX	25,741,480,134	25,840,710,001	0.385
New England Telephone	8,982,784,000	9,040,016,001	0.637
New York Telephone	16,758,696,134	16,800,694,000	0.251
PACIFIC BELL TOTAL	22,877,118,996	22,936,268,750	0.259
Pacific Bell - California	22,457,960,000	22,517,228,000	0.264
Pacific Bell - Nevada	419,158,996	419,040,750	-0.028
SOUTHWESTERN BELL TOTAL	22,924,321,979	22,991,252,979	0.292
US WEST	22,243,081,093	22,260,361,121	0.078
Mountain States	10,856,528,096	10,892,614,109	0.332
Northwest Bell	6,465,559,997	6,455,391,012	-0.157
Pacific Northwest	4,920,993,000	4,912,356,000	-0.176
TOTAL BOC	173,822,936,265	174,100,739,092	0.160

TOTAL COMPANY SUBJECT TO SEPARATION

PLANT
(LINES 600-670)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
CENTEL TOTAL	891,251,569	887,044,199	-0.472
Centel - Florida	418,929,121	417,421,499	-0.360
Centel - Nevada	472,322,448	469,622,700	-0.572
CINCINNATI BELL	1,112,105,000	1,126,135,162	1.262
CONTEL TOTAL	2,029,178,528	2,027,806,729	-0.068
Contel - California	588,199,072	587,736,503	-0.079
Contel - New York	421,207,311	421,207,310	-0.000
Contel - Texas	424,537,825	423,633,505	-0.213
Contel - Virginia	595,234,320	595,229,411	-0.001
GTE TOTAL	24,298,911,764	24,185,568,323	-0.466
GTE - California	6,639,173,762	6,609,649,002	-0.445
GTE - Florida	3,218,143,096	3,206,010,519	-0.377
GTE of the Northwest	1,894,944,776	1,874,296,387	-1.090
GTE of the South	2,252,048,620	2,235,744,556	-0.724
GTE of the Southwest	3,237,925,212	3,229,543,229	-0.259
GTE of the Midwest	5,923,252,849	5,901,294,134	-0.371
Hawaiian Telephone	1,133,423,449	1,129,030,496	-0.388
LINCOLN TELEPHONE	365,001,582	365,001,582	0.000
ROCHESTER TELEPHONE	639,205,000	638,635,197	-0.089
SOUTHERN NEW ENGLAND	3,207,736,000	3,211,519,500	0.118
UTS TOTAL	4,814,347,046	4,796,333,360	-0.374
UTS - Florida	1,680,621,226	1,673,073,224	-0.449
UTS - Indiana	356,095,999	354,325,999	-0.497
UTS - North Carolina	1,147,198,438	1,143,307,437	-0.339
UTS - Ohio	748,786,000	749,128,833	0.046
UTS - Pennsylvania	459,430,823	455,894,824	-0.770
United Inter-Mountain	422,214,560	420,603,043	-0.382
TOTAL INDEPENDENTS	37,357,736,489	37,238,044,052	-0.320

TOTAL INTERSTATE

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
AMERITECH	871,646,172	893,216,192	2.475
Illinois Bell	317,624,665	315,257,494	-0.745
Indiana Bell	96,057,718	102,962,037	7.188
Michigan Bell	190,466,173	197,786,646	3.843
Ohio Bell	172,534,041	179,818,412	4.222
Wisconsin Bell	94,963,575	97,391,603	2.557
BELL ATLANTIC	1,020,619,585	1,083,055,409	6.117
C&P - D. C.	68,350,484	72,918,741	6.684
C&P - Maryland	142,085,971	151,411,504	6.563
C&P - Virginia	155,902,848	168,027,469	7.777
C&P - West Virginia	52,376,802	52,322,404	-0.104
Diamond State	27,595,813	29,792,016	7.958
Bell of Pennsylvania	265,681,603	268,368,175	1.011
New Jersey Bell	308,626,064	340,215,100	10.235
BELLSOUTH	1,143,637,165	1,194,191,883	4.421
Southern Bell	740,304,403	770,530,286	4.083
South Central Bell	403,332,762	423,661,597	5.040
NYNEX	1,425,562,386	1,486,715,536	4.290
New England Telephone	435,220,980	481,190,533	10.562
New York Telephone	990,341,406	1,005,525,003	1.533
PACIFIC BELL TOTAL	708,429,776	704,307,852	-0.582
Pacific Bell - California	679,146,293	675,706,955	-0.506
Pacific Bell - Nevada	29,283,483	28,600,897	-2.331
SOUTHWESTERN BELL TOTAL	756,054,935	733,033,617	-3.045
US WEST	934,571,844	956,081,000	2.301
Mountain States	500,980,417	514,471,902	2.693
Northwest Bell	234,512,910	243,965,762	4.031
Pacific Northwest	199,078,517	197,643,336	-0.721
TOTAL BOC	6,860,521,863	7,050,601,489	2.771

TOTAL INTERSTATE

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
CENTEL TOTAL	47,316,301	51,011,819	7.810
Centel - Florida	17,867,172	20,776,531	16.283
Centel - Nevada	29,449,129	30,235,288	2.670
CINCINNATI BELL	58,398,085	53,079,036	-9.108
CONTEL TOTAL	75,680,400	84,690,997	11.906
Contel - California	24,296,997	25,444,027	4.721
Contel - New York	14,369,153	16,038,183	11.615
Contel - Texas	11,031,953	12,360,039	12.039
Contel - Virginia	25,982,297	30,848,748	18.730
GTE TOTAL	968,164,133	934,340,307	-3.494
GTE - California	251,887,230	229,560,735	-8.864
GTE - Florida	170,311,619	161,583,410	-5.125
GTE of the Northwest	81,445,542	71,872,747	-11.754
GTE of the South	97,528,154	96,090,878	-1.474
GTE of the Southwest	110,330,397	107,919,612	-2.185
GTE of the Midwest	202,972,816	219,850,926	8.315
Hawaiian Telephone	53,688,375	47,461,999	-11.597
LINCOLN TELEPHONE	16,586,355	15,859,861	-4.380
ROCHESTER TELEPHONE	21,993,325	23,675,000	7.646
SOUTHERN NEW ENGLAND	178,655,183	172,140,630	-3.646
UTS TOTAL	194,326,488	214,518,745	10.391
UTS - Florida	88,113,210	95,763,508	8.682
UTS - Indiana	13,613,590	14,510,409	6.588
UTS - North Carolina	40,349,226	47,442,271	17.579
UTS - Ohio	24,093,601	25,702,880	6.679
UTS - Pennsylvania	12,614,377	12,731,990	0.932
United Inter-Mountain	15,542,484	18,367,687	18.177
TOTAL INDEPENDENTS	1,561,120,270	1,549,316,395	-0.756

TOTAL INTERSTATE

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
AMERITECH	893,216,192	957,955,326	7.248
Illinois Bell	315,257,494	329,549,861	4.534
Indiana Bell	102,962,037	106,967,592	3.890
Michigan Bell	197,786,646	223,593,001	13.048
Ohio Bell	179,818,412	191,019,550	6.229
Wisconsin Bell	97,391,603	106,825,322	9.686
BELL ATLANTIC	1,083,055,409	1,164,004,154	7.474
C&P - D. C.	72,918,741	72,595,746	-0.443
C&P - Maryland	151,411,504	160,640,658	6.095
C&P - Virginia	168,027,469	183,108,379	8.975
C&P - West Virginia	52,322,404	55,960,863	6.954
Diamond State	29,792,016	32,154,926	7.931
Bell of Pennsylvania	268,368,175	294,929,582	9.897
New Jersey Bell	340,215,100	364,614,000	7.172
BELLSOUTH	1,194,191,883	1,281,284,044	7.293
Southern Bell	770,530,286	821,633,278	6.632
South Central Bell	423,661,597	459,650,766	8.495
NYNEX	1,486,715,536	1,578,596,665	6.180
New England Telephone	481,190,533	502,304,991	4.388
New York Telephone	1,005,525,003	1,076,291,674	7.038
PACIFIC BELL TOTAL	704,307,852	807,290,705	14.622
Pacific Bell - California	675,706,955	776,054,358	14.851
Pacific Bell - Nevada	28,600,897	31,236,347	9.215
SOUTHWESTERN BELL TOTAL	733,033,617	775,819,191	5.837
US WEST	956,081,000	1,061,010,626	10.975
Mountain States	514,471,902	567,661,130	10.339
Northwest Bell	243,965,762	275,722,297	13.017
Pacific Northwest	197,643,336	217,627,199	10.111
TOTAL BOC	7,050,601,489	7,625,960,711	8.160

TOTAL INTERSTATE

EXPENSES
(LINES 200-270)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
CENTEL TOTAL	51,011,819	51,156,838	0.284
Centel - Florida	20,776,531	20,927,477	0.727
Centel - Nevada	30,235,288	30,229,361	-0.020
CINCINNATI BELL	53,079,036	57,833,133	8.957
CONTEL TOTAL	84,690,997	85,291,418	0.709
Contel - California	25,444,027	24,954,288	-1.925
Contel - New York	16,038,183	16,286,763	1.550
Contel - Texas	12,360,039	12,587,942	1.844
Contel - Virginia	30,848,748	31,462,425	1.989
GTE TOTAL	934,340,307	1,002,969,017	7.345
GTE - California	229,560,735	248,416,359	8.214
GTE - Florida	161,583,410	172,048,384	6.477
GTE of the Northwest	71,872,747	70,883,174	-1.377
GTE of the South	96,090,878	107,524,628	11.899
GTE of the Southwest	107,919,612	124,175,307	15.063
GTE of the Midwest	219,850,926	226,156,030	2.868
Hawaiian Telephone	47,461,999	53,765,135	13.280
LINCOLN TELEPHONE	15,859,861	17,431,624	9.910
ROCHESTER TELEPHONE	23,675,000	24,186,819	2.162
SOUTHERN NEW ENGLAND	172,140,630	181,992,413	5.723
UTS TOTAL	214,518,745	221,740,446	3.366
UTS - Florida	95,763,508	99,850,712	4.268
UTS - Indiana	14,510,409	15,252,017	5.111
UTS - North Carolina	47,442,271	45,597,476	-3.889
UTS - Ohio	25,702,880	28,543,273	11.051
UTS - Pennsylvania	12,731,990	14,772,138	16.024
United Inter-Mountain	18,367,687	17,724,830	-3.500
TOTAL INDEPENDENTS	1,549,316,395	1,642,601,708	6.021

TOTAL INTERSTATE

PLANT
(LINES 600-670)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
AMERITECH	5,317,010,589	5,788,412,818	8.866
Illinois Bell	1,883,990,711	2,022,993,079	7.378
Indiana Bell	624,155,675	681,154,667	9.132
Michigan Bell	1,173,692,624	1,346,200,934	14.698
Ohio Bell	1,055,127,389	1,113,067,400	5.491
Wisconsin Bell	580,044,190	624,996,738	7.750
BELL ATLANTIC	6,272,699,959	6,964,557,586	11.030
C&P - D. C.	451,024,780	512,752,115	13.686
C&P - Maryland	880,533,774	989,634,315	12.390
C&P - Virginia	989,072,240	1,090,935,923	10.299
C&P - West Virginia	300,640,977	323,943,808	7.751
Diamond State	172,455,527	185,865,351	7.776
Bell of Pennsylvania	1,585,987,927	1,828,926,074	15.318
New Jersey Bell	1,892,984,735	2,032,500,000	7.370
BELLSOUTH	7,762,239,783	8,511,810,139	9.657
Southern Bell	4,789,417,355	5,246,194,536	9.537
South Central Bell	2,972,822,428	3,265,615,603	9.849
NYNEX	7,186,074,437	7,679,245,706	6.863
New England Telephone	2,566,215,163	2,779,820,894	8.324
New York Telephone	4,619,859,274	4,899,424,812	6.051
PACIFIC BELL TOTAL	4,834,457,218	5,083,674,397	5.155
Pacific Bell - California	4,629,376,492	4,883,977,754	5.500
Pacific Bell - Nevada	205,080,726	199,696,643	-2.625
SOUTHWESTERN BELL TOTAL	5,716,435,873	6,051,434,775	5.860
US WEST	6,842,325,343	7,167,292,336	4.749
Mountain States	3,661,462,341	3,778,392,422	3.194
Northwest Bell	1,846,953,704	1,981,150,680	7.266
Pacific Northwest	1,333,909,298	1,407,749,234	5.536
TOTAL BOC	43,931,243,201	47,246,427,757	7.546

TOTAL INTERSTATE

PLANT
(LINES 600-670)

FILE NAME	PART 31 1H31	PART 31 1P31	1P31 % INCR OVER 1H31
CENTEL TOTAL	344,606,759	353,195,558	2.492
Centel - Florida	124,797,771	134,183,362	7.521
Centel - Nevada	219,808,988	219,012,196	-0.362
CINCINNATI BELL	243,222,355	257,389,884	5.825
CONTEL TOTAL	462,045,194	501,183,469	8.471
Contel - California	132,228,747	142,594,773	7.839
Contel - New York	86,839,604	97,918,674	12.758
Contel - Texas	78,032,221	89,258,198	14.386
Contel - Virginia	164,944,622	171,411,824	3.921
GTE TOTAL	6,013,641,543	6,437,797,309	7.053
GTE - California	1,288,545,903	1,432,557,426	11.176
GTE - Florida	1,030,871,881	1,090,682,790	5.802
GTE of the Northwest	566,101,052	597,985,160	5.632
GTE of the South	599,533,189	648,241,197	8.124
GTE of the Southwest	747,104,595	828,748,401	10.928
GTE of the Midwest	1,406,385,382	1,492,389,101	6.115
Hawaiian Telephone	375,099,541	347,193,234	-7.440
LINCOLN TELEPHONE	106,924,904	110,952,741	3.767
ROCHESTER TELEPHONE	142,235,844	162,925,000	14.546
SOUTHERN NEW ENGLAND	863,722,962	975,364,068	12.926
UTS TOTAL	1,420,224,693	1,455,597,949	2.491
UTS - Florida	630,987,763	638,912,299	1.256
UTS - Indiana	100,478,904	102,284,833	1.797
UTS - North Carolina	306,577,593	319,411,603	4.186
UTS - Ohio	170,173,201	171,024,947	0.501
UTS - Pennsylvania	95,229,675	106,418,686	11.750
United Inter-Mountain	116,777,557	117,545,581	0.658
TOTAL INDEPENDENTS	9,596,624,254	10,254,405,978	6.854

TOTAL INTERSTATE

PLANT
(LINES 600-670)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
AMERITECH	5,788,412,818	5,699,621,688	-1.534
Illinois Bell	2,022,993,079	1,969,335,534	-2.652
Indiana Bell	681,154,667	673,182,747	-1.170
Michigan Bell	1,346,200,934	1,334,858,340	-0.843
Ohio Bell	1,113,067,400	1,110,811,458	-0.203
Wisconsin Bell	624,996,738	611,433,609	-2.170
BELL ATLANTIC	6,964,557,586	6,868,914,127	-1.373
C&P - D. C.	512,752,115	489,750,134	-4.486
C&P - Maryland	989,634,315	960,547,979	-2.939
C&P - Virginia	1,090,935,923	1,084,182,332	-0.619
C&P - West Virginia	323,943,808	321,411,791	-0.782
Diamond State	185,865,351	186,769,544	0.486
Bell of Pennsylvania	1,828,926,074	1,801,256,345	-1.513
New Jersey Bell	2,032,500,000	2,024,996,002	-0.369
BELLSOUTH	8,511,810,139	8,535,424,123	0.277
Southern Bell	5,246,194,536	5,258,953,792	0.243
South Central Bell	3,265,615,603	3,276,470,331	0.332
NYNEX	7,679,245,706	7,581,153,776	-1.277
New England Telephone	2,779,320,894	2,665,105,174	-4.127
New York Telephone	4,899,424,812	4,916,048,602	0.339
PACIFIC BELL TOTAL	5,083,674,397	5,113,340,905	0.584
Pacific Bell - California	4,883,977,754	4,917,421,764	0.685
Pacific Bell - Nevada	199,696,643	195,919,141	-1.892
SOUTHWESTERN BELL TOTAL	6,051,434,775	6,043,356,834	-0.133
US WEST	7,167,292,336	7,208,237,295	0.571
Mountain States	3,778,392,422	3,809,123,086	0.813
Northwest Bell	1,981,150,680	1,992,283,206	0.562
Pacific Northwest	1,407,749,234	1,406,831,003	-0.065
TOTAL BOC	47,246,427,757	47,050,048,748	-0.416

TOTAL INTERSTATE

PLANT
(LINES 600-670)

FILE NAME	PART 31 1P31	PART 32 1P32	1P32 % INCR OVER 1P31
CENTEL TOTAL	353,195,558	337,929,134	-4.322
Centel - Florida	134,183,362	129,505,091	-3.486
Centel - Nevada	219,012,196	208,424,043	-4.835
CINCINNATI BELL	257,389,884	269,467,865	4.692
CONTEL TOTAL	501,183,469	486,819,926	-2.866
Contel - California	142,594,773	136,150,467	-4.519
Contel - New York	97,918,674	95,731,750	-2.233
Contel - Texas	89,258,198	86,781,710	-2.775
Contel - Virginia	171,411,824	168,155,999	-1.899
GTE TOTAL	6,437,797,309	6,254,439,684	-2.848
GTE - California	1,432,557,426	1,389,243,778	-3.024
GTE - Florida	1,090,682,790	1,031,623,104	-5.415
GTE of the Northwest	597,985,160	591,678,906	-1.055
GTE of the South	648,241,197	622,692,382	-3.941
GTE of the Southwest	828,748,401	810,518,728	-2.200
GTE of the Midwest	1,492,389,101	1,465,382,653	-1.810
Hawaiian Telephone	347,193,234	343,300,133	-1.121
LINCOLN TELEPHONE	110,952,741	108,699,589	-2.031
ROCHESTER TELEPHONE	162,925,000	164,286,346	0.836
SOUTHERN NEW ENGLAND	975,364,068	968,095,068	-0.745
UTS TOTAL	1,455,597,949	1,406,102,050	-3.400
UTS - Florida	638,912,299	612,144,762	-4.190
UTS - Indiana	102,284,833	97,811,713	-4.373
UTS - North Carolina	319,411,603	312,390,279	-2.198
UTS - Ohio	171,024,947	170,372,217	-0.382
UTS - Pennsylvania	106,418,686	104,363,836	-1.931
United Inter-Mountain	117,545,581	109,019,243	-7.254
TOTAL INDEPENDENTS	10,254,405,978	9,995,839,662	-2.522

COSSC
12/12/87

ANALYSIS OF THE IMPACT OF RULE CHANGES ON TOTAL INTERSTATE REVENUE REQUIREMENT (000)

COMPANY	TEST YEAR REVENUE REQUIREMENT COL A	HYPOTHETICAL PART 31-TEST PERIOD TEST YEAR REVENUE REQUIREMENT COL B	RULE CHANGE IMPACT COL C= A - B	PERCENTAGE CHANGE OF RULE CHANGE IMPACT COL D= C /A	RANK
AMERITECH	1,970,733	1,969,532	1,201	0.06%	8
BELL ATLANTIC	2,466,359	2,435,297	31,062	1.26%	3
BELL SOUTH	2,871,159	2,837,999	33,160	1.15%	4
NYNEX	3,128,791	3,107,832	20,959	0.67%	5
PACIFIC	1,758,869	1,675,079	83,790	4.76%	1
SOUTHWESTERN BELL TEL. CO.	1,832,698	1,825,266	7,432	0.41%	6
U.S. WEST	1,754,154	1,702,204	51,950	2.96%	2
CENTRAL TELEPHONE CO.	101,041	105,586	(4,545)	-4.50%	11
CONTINENTAL TELEPHONE CO.	172,276	177,177	(4,901)	-2.84%	10
GENERAL TELEPHONE OPERATING COs	2,258,025	2,248,947	9,078	0.40%	7
UNITED TELEPHONE SYSTEM	479,698	487,207	(7,509)	-1.57%	9
TOTAL DIVESTED BELL OCs	15,782,763	15,553,209	229,554	1.45%	
TOTAL ICOs	3,595,661	3,594,605	1,056	0.03%	
TOTAL BOCs + ICOs	19,378,424	19,147,814	230,610	1.19%	
ILLINOIS BELL	657,183	672,742	(15,559)	-2.37%	38
INDIANA BELL	233,060	232,473	587	0.25%	27
MICHIGAN BELL	453,104	443,626	9,478	2.09%	11
OHIO BELL	405,595	401,018	4,517	1.11%	18
WISCONSIN BELL	221,851	219,673	2,178	0.98%	20
C & P (D.C.)	172,897	181,614	(8,717)	-5.04%	43
C & P of MARYLAND	340,353	341,845	(1,492)	-0.44%	30
C & P of VIRGINIA	376,614	368,894	7,720	2.05%	12
C & P OF WEST VIRGINIA	123,234	122,286	948	0.77%	22
DIAMOND STATE TEL.	69,355	68,931	424	0.61%	23
BELL OF PENNSYLVANIA	633,441	612,529	20,912	3.30%	9
NEW JERSEY BELL	750,465	739,198	11,267	1.50%	15
SOUTHERN BELL	1,799,789	1,775,361	24,428	1.36%	16
SOUTH CENTRAL BELL	1,071,370	1,062,638	8,732	0.82%	21
NEW ENGLAND TELEPHONE	1,008,149	1,019,402	(11,253)	-1.12%	32
NEW YORK TELEPHONE	2,120,642	2,088,430	32,212	1.52%	14
PACIFIC BELL	1,758,869	1,675,079	83,790	4.76%	3
NEVADA BELL	0	0	0	ERR	2
SOUTHWESTERN BELL TEL. CO.	1,832,698	1,825,266	7,432	0.41%	25
MOUNTAIN BELL	1,286,921	1,243,321	43,600	3.39%	8
NORTHWESTERN BELL	0	0	0	ERR	1
PACIFIC NORTHWEST BELL	467,233	458,883	8,350	1.79%	13
CENTRAL OF FLORIDA	40,189	41,665	(1,476)	-3.67%	41
CENTRAL OF NEVADA	60,852	63,921	(3,069)	-5.04%	44
CINCINNATI BELL TELEPHONE	107,725	102,974	4,751	4.41%	4
CONTEL OF CALIFORNIA	52,847	55,575	(2,728)	-5.16%	45
CONTEL OF NEW YORK	33,178	33,792	(614)	-1.85%	36
CONTEL OF TEXAS	27,638	28,070	(432)	-1.56%	35
CONTEL OF VIRGINIA	58,613	59,740	(1,127)	-1.92%	37
GTE OF CALIFORNIA	521,342	519,592	1,750	0.34%	26
GTE OF FLORIDA	397,526	402,343	(4,817)	-1.21%	33
GTE OF THE NORTHWEST	198,670	198,910	(240)	-0.12%	28
GTE OF THE SOUTH	226,201	223,425	2,776	1.23%	17
GTE OF THE SOUTHWEST	283,973	272,477	11,496	4.05%	6
GTE MIDWEST OPERATIONS	510,638	515,675	(5,037)	-0.99%	31
HAWAIIAN TELEPHONE CO.	119,675	116,525	3,150	2.63%	10
LINCOLN TELEPHONE COMPANY	36,688	36,474	214	0.58%	24
ROCHESTER TELEPHONE CORPORATION	58,679	58,773	(94)	-0.16%	29
SOUTHERN NEW ENGLAND TELEPHONE	381,529	377,467	4,062	1.06%	19
UNITED OF FLORIDA	213,525	219,314	(5,789)	-2.71%	39
UNITED OF INDIANA	31,884	32,277	(393)	-1.23%	34
CAROLINA TEL. & TEL.	100,703	103,762	(3,059)	-3.04%	40
UNITED OF OHIO	65,319	63,102	2,217	3.39%	7
UNITED OF PENN.	31,609	30,258	1,351	4.27%	5
UNITED INTER-MOUNTAIN	36,658	38,494	(1,836)	-5.01%	42

DH03

12/12/87

A

TEST YEAR COMMON LINE MINUTES OF USE GROWTH

----------MOU IN THOUSANDS----------

COMPANY	TOTAL PROSPECTIVE MOU 1/88 -12/88 A	TOTAL PAST YEAR COST OF SERVICE MOU 7/86 - 6/87 B	ANNUALIZED PERCENT GROWTH C= (A/B)^(2/3)-1	RANK D
AMERITECH	22990840	21142815	5.75%	1
BELL ATLANTIC	33542521	30289790	7.04%	3
BELL SOUTH	31276815	28148112	7.28%	4
NYNEX	31140334	26511391	11.33%	10
PACIFIC	16277522	14209843	9.48%	7
SOUTHWESTERN BELL TEL. CO.	19242259	17178524	7.86%	5
U.S. WEST	23864143	21840555	6.09%	2
CENTRAL TELEPHONE CO.	1575307	1345787	11.07%	9
CONTINENTAL TELEPHONE CO.	1290675	1134478	8.98%	6
GENERAL TELEPHONE OPERATING COs	16858305	14566336	10.23%	8
UNITED TELEPHONE SYSTEM	4859788	3982180	14.20%	11
TOTAL DIVESTED BELL OCs	178334434	159321030	7.81%	
TOTAL ICOs	31523015	26910920	11.12%	
TOTAL BOCs + ICOs	209857449	186231950	8.29%	
ILLINOIS BELL	8068757	7555089	4.48%	9
INDIANA BELL	2490571	2361685	3.61%	5
MICHIGAN BELL	5081985	4645877	6.16%	14
OHIO BELL	4771498	4279674	7.52%	19
WISCONSIN BELL	2578029	2300490	7.89%	21
C & P (D.C.)	1763122	1894800	-4.69%	1
C & P-of MARYLAND	5054071	4185924	13.39%	40
C & P of VIRGINIA	5237328	4433510	11.75%	37
C & P OF WEST VIRGINIA	1133096	1000714	8.64%	28
DIAMOND STATE TEL.	974227	895527	5.78%	12
BELL OF PENNSYLVANIA	8252677	7452053	7.04%	17
NEW JERSEY BELL	11128000	10427262	4.43%	8
SOUTHERN BELL	19574024	17328049	8.46%	27
SOUTH CENTRAL BELL	11702791	10820063	5.37%	11
NEW ENGLAND TELEPHONE	11702948	10071543	10.53%	33
NEW YORK TELEPHONE	19437386	16439848	11.81%	38
PACIFIC BELL	15787000	13743697	9.68%	31
NEVADA BELL	490522	466146	3.46%	4
SOUTHWESTERN BELL TEL. CO.	19242259	17178524	7.86%	20
MOUNTAIN BELL	12632445	11192363	8.40%	26
NORTHWESTERN BELL	6250117	5994210	2.83%	2
PACIFIC NORTHWEST BELL	4981581	4653982	4.64%	10
CENTRAL OF FLORIDA	487030	434082	7.97%	22
CENTRAL OF NEVADA	1088277	911705	12.53%	39
CINCINNATI BELL TELEPHONE	1236000	1133050	5.97%	13
CONTEL OF CALIFORNIA	269918	230665	11.05%	35
CONTEL OF NEW YORK	268773	253486	3.98%	6
CONTEL OF TEXAS	140128	115057	14.04%	41
CONTEL OF VIRGINIA	611856	535270	9.32%	30
GTE OF CALIFORNIA	3749697	2971012	16.79%	44
GTE OF FLORIDA	3043406	2707806	8.10%	25
GTE OF THE NORTHWEST	1255090	1193284	3.42%	3
GTE OF THE SOUTH	1728690	1539507	8.03%	23
GTE OF THE SOUTHWEST	1905020	1527298	15.87%	43
GTE MIDWEST OPERATIONS	4294014	3822148	8.07%	24
HAWAIIAN TELEPHONE CO.	882388	805281	6.29%	15
LINCOLN TELEPHONE COMPANY	298588	280609	4.23%	7
ROCHESTER TELEPHONE CORPORATION	612374	556068	6.64%	16
SOUTHERN NEW ENGLAND TELEPHONE	4791978	3912412	14.48%	42
UNITED OF FLORIDA	2023374	1507797	21.66%	45
UNITED OF INDIANA	230367	197065	10.97%	34
CAROLINA TEL. & TEL.	1264557	1111533	8.98%	29
UNITED OF OHIO	575881	496139	10.45%	32
UNITED OF PENN.	350719	296990	11.72%	36
UNITED INTER-MOUNTAIN	414890	372656	7.42%	18

DMD3

12/12/87

B
TEST YEAR TRAFFIC SENSITIVE MINUTES OF USE GROWTH
MOU IN THOUSANDS

COMPANY	TOTAL PROSPECTIVE MOU 1/88 -12/88 A	TOTAL PAST YEAR COST OF SERVICE MOU 7/86 - 6/87 B	ANNUALIZED PERCENT GROWTH C= (A/B)^(2/3)-1	RANK D
AMERITECH	26887444	24976937	5.04%	3
BELL ATLANTIC	38326798	34806872	6.63%	4
BELL SOUTH	35046290	32632709	4.87%	2
NYNEX	34427475	30251035	9.00%	9
PACIFIC	18196030	16428222	7.05%	5
SOUTHWESTERN BELL TEL. CO.	22388015	19861198	8.31%	7
U.S. WEST	27709125	26007770	4.31%	1
CENTRAL TELEPHONE CO.	1712595	1523060	8.13%	6
CONTINENTAL TELEPHONE CO.	1324584	1168656	8.71%	8
GENERAL TELEPHONE OPERATING COs	18412226	15619413	11.59%	10
UNITED TELEPHONE SYSTEM	5155923	4311567	12.66%	11
TOTAL DIVESTED BELL OCs	202981177	184964743	6.39%	
TOTAL ICOs	34452690	29411327	11.12%	
TOTAL BOCs + ICOs	237433867	214376070	7.05%	
ILLINOIS BELL	9654981	9179382	3.42%	6
INDIANA BELL	2780340	2543110	6.13%	16
MICHIGAN BELL	5830000	5326612	6.21%	17
OHIO BELL	5678160	5241372	5.48%	13
WISCONSIN BELL	2943963	2686461	6.29%	18
C & P (D.C.)	2054122	1993077	2.03%	3
C & P-of MARYLAND	5565401	4928153	8.44%	29
C & P of VIRGINIA	5831982	4890373	12.46%	40
C & P OF WEST VIRGINIA	1253645	1129796	7.18%	25
DIAMOND STATE TEL.	1157060	1049874	6.70%	21
BELL OF PENNSYLVANIA	9464588	9057947	2.97%	5
NEW JERSEY BELL	13000000	11757652	6.93%	23
SOUTHERN BELL	21860349	20259484	5.20%	10
SOUTH CENTRAL BELL	13185941	12373225	4.33%	7
NEW ENGLAND TELEPHONE	13019067	11474410	8.78%	31
NEW YORK TELEPHONE	21408408	18776625	9.14%	33
PACIFIC BELL	17580000	15852409	7.14%	24
NEVADA BELL	616030	575813	4.60%	9
SOUTHWESTERN BELL TEL. CO.	22388015	19861198	8.31%	28
MOUNTAIN BELL	14234753	13049471	5.97%	15
NORTHWESTERN BELL	7765898	7689393	0.66%	1
PACIFIC NORTHWEST BELL	5708474	5268906	5.49%	14
CENTRAL OF FLORIDA	501731	442237	8.78%	30
CENTRAL OF NEVADA	1210864	1080823	7.87%	27
CINCINNATI BELL TELEPHONE	1474983	1343722	6.41%	19
CONTEL OF CALIFORNIA	276535	240371	9.79%	35
CONTEL OF NEW YORK	274088	265481	2.15%	4
CONTEL OF TEXAS	140948	117317	13.01%	42
CONTEL OF VIRGINIA	633013	545487	10.43%	36
GTE OF CALIFORNIA	4056579	3204376	17.02%	43
GTE OF FLORIDA	3295801	2995775	6.57%	20
GTE OF THE NORTHWEST	1372877	1284428	4.54%	8
GTE OF THE SOUTH	1922191	1679061	9.43%	34
GTE OF THE SOUTHWEST	2074060	1530800	22.44%	45
GTE MIDWEST OPERATIONS	4737354	4044045	11.13%	39
HAWAIIAN TELEPHONE CO.	953364	880928	5.41%	12
LINCOLN TELEPHONE COMPANY	326083	316398	2.03%	2
ROCHESTER TELEPHONE CORPORATION	687005	635195	5.37%	11
SOUTHERN NEW ENGLAND TELEPHONE	5359291	4493316	12.47%	41
UNITED OF FLORIDA	2112408	1607314	19.98%	44
UNITED OF INDIANA	244993	210725	10.57%	37
CAROLINA TEL. & TEL.	1339954	1206581	7.24%	26
UNITED OF OHIO	613948	540655	8.84%	32
UNITED OF PENN.	380305	325143	11.01%	38
UNITED INTER-MOUNTAIN	464315	421149	6.72%	22

DMD4
12/12/87

DMD4A

GROWTH IN 2 - WIRE VOICE GRADE SPECIAL ACCESS CHANNEL TERMINATION (EXCL WATS)

COMPANY	PROSPECTIVE CHANNEL TERMINATION COL A	HISTORICAL CHANNEL TERMINATION COL B	DEMAND GROWTH COL C = (A - B)x2/3	PERCENTAGE OF DEMAND GROWTH COL D = C / B	RANK
AMERITECH	40,762	54,532	(9,180)	-16.83%	5
BELL ATLANTIC	71,118	92,301	(14,122)	-15.30%	6
BELL SOUTH	30,310	44,828	(9,679)	-21.59%	4
NYNEX	79,507	97,699	(12,128)	-12.41%	7
PACIFIC	31,021	53,617	(15,064)	-28.10%	1
SOUTHWESTERN BELL TEL. CO.	20,289	31,621	(7,555)	-23.89%	2
U.S. WEST	17,871	27,167	(6,197)	-22.81%	3
CENTRAL TELEPHONE CO.	2,156	1,382	516	37.34%	11
CONTINENTAL TELEPHONE CO.	1,265	917	232	25.30%	10
GENERAL TELEPHONE OPERATING COs	19,965	23,081	(2,077)	-9.00%	8
UNITED TELEPHONE SYSTEM	3,322	3,070	168	5.47%	9
TOTAL DIVESTED BELL OCs	290,878	401,765	(73,925)	-18.40%	
TOTAL ICOs	37,706	42,525	(3,213)	-7.55%	
TOTAL BOCs + ICOs	328,584	444,290	(77,137)	-17.36%	
ILLINOIS BELL	22,256	26,566	(2,873)	-10.82%	23
INDIANA BELL	2,834	4,049	(810)	-20.00%	11
MICHIGAN BELL	7,145	9,973	(1,885)	-18.90%	14
OHIO BELL	6,031	9,802	(2,514)	-25.65%	6
WISCONSIN BELL	2,496	4,142	(1,097)	-26.49%	5
C & P (D.C.)	15,327	19,556	(2,819)	-14.42%	18
C & P of MARYLAND	8,042	9,759	(1,145)	-11.73%	21
C & P of VIRGINIA	9,353	11,241	(1,259)	-11.20%	22
C & P OF WEST VIRGINIA	1,483	1,689	(137)	-8.13%	27
DIAMOND STATE TEL.	1,396	1,535	(95)	-6.19%	29
BELL OF PENNSYLVANIA	14,746	20,810	(4,043)	-19.43%	12
NEW JERSEY BELL	20,771	27,707	(4,624)	-16.69%	16
SOUTHERN BELL	16,909	26,673	(6,509)	-24.40%	8
SOUTH CENTRAL BELL	13,401	18,155	(3,169)	-17.46%	15
NEW ENGLAND TELEPHONE	10,745	18,465	(5,147)	-27.87%	4
NEW YORK TELEPHONE	68,762	79,234	(6,981)	-8.81%	26
PACIFIC BELL	30,136	52,472	(14,891)	-28.38%	3
NEVADA BELL	885	1,145	(173)	-15.14%	17
SOUTHWESTERN BELL TEL. CO.	20,289	31,621	(7,555)	-23.89%	9
MOUNTAIN BELL	6,443	11,295	(3,235)	-28.64%	2
NORTHWESTERN BELL	5,381	8,729	(2,232)	-25.57%	7
PACIFIC NORTHWEST BELL	6,047	7,143	(731)	-10.23%	24
CENTRAL OF FLORIDA	345	339	4	1.18%	34
CENTRAL OF NEVADA	1,811	1,043	512	49.09%	45
CINCINNATI BELL TELEPHONE	1,311	2,454	(762)	-31.05%	1
CONTEL OF CALIFORNIA	276	261	10	3.83%	37
CONTEL OF NEW YORK	269	184	57	30.80%	43
CONTEL OF TEXAS	56	53	2	3.77%	36
CONTEL OF VIRGINIA	664	419	163	38.98%	44
GTE OF CALIFORNIA	4,607	6,432	(1,217)	-18.92%	13
GTE OF FLORIDA	2,430	2,863	(289)	-10.08%	25
GTE OF THE NORTHWEST	1,280	1,303	(15)	-1.18%	31
GTE OF THE SOUTH	2,630	2,272	239	10.50%	40
GTE OF THE SOUTHWEST	1,485	1,658	(115)	-6.96%	28
GTE MIDWEST OPERATIONS	5,463	5,543	(53)	-0.96%	32
HAWAIIAN TELEPHONE CO.	2,070	3,010	(627)	-20.82%	10
LINCOLN TELEPHONE COMPANY	684	606	52	8.58%	39
ROCHESTER TELEPHONE CORPORATION	1,191	1,248	(38)	-3.04%	30
SOUTHERN NEW ENGLAND TELEPHONE	7,812	9,767	(1,303)	-13.34%	19
UNITED OF FLORIDA	787	740	31	4.23%	38
UNITED OF INDIANA	190	191	(1)	-0.35%	33
CAROLINA TEL. & TEL.	456	559	(69)	-12.28%	20
UNITED OF OHIO	1,086	854	155	18.11%	42
UNITED OF PENN.	433	369	43	11.56%	41
UNITED INTER-MOUNTAIN	370	357	9	2.43%	35

DMD4
12/12/87

DMD4B

GROWTH IN 4 - WIRE VOICE GRADE SPECIAL ACCESS CHANNEL TERMINATION (EXCL WATS)

COMPANY	PROSPECTIVE CHANNEL TERMINATION COL A	HISTORICAL CHANNEL TERMINATION COL B	DEMAND GROWTH COL C = (A - B)*2/3	PERCENTAGE OF DEMAND GROWTH COL D = C / B	RANK
AMERITECH	224,193	280,107	(37,276)	-13.31%	4
BELL ATLANTIC	234,639	289,609	(36,647)	-12.65%	5
BELL SOUTH	222,073	265,919	(29,231)	-10.99%	7
NYNEX	230,690	287,717	(32,685)	-11.36%	6
PACIFIC	112,651	174,875	(41,483)	-23.72%	1
SOUTHWESTERN BELL TEL. CO.	158,702	220,536	(41,223)	-18.69%	2
U.S. WEST	145,644	187,781	(28,091)	-14.96%	3
CENTRAL TELEPHONE CO.	7,371	8,056	(457)	-5.67%	8
CONTINENTAL TELEPHONE CO.	3,780	3,858	(52)	-1.35%	9
GENERAL TELEPHONE OPERATING COs	82,691	83,824	(755)	-0.90%	10
UNITED TELEPHONE SYSTEM	19,134	18,258	584	3.20%	11
TOTAL DIVESTED BELL OCs	1,336,592	1,706,544	(246,635)	-14.45%	
TOTAL ICOs	162,178	177,397	(10,146)	-5.72%	
TOTAL BOCs + ICOs	1,498,770	1,883,941	(256,781)	-13.63%	
ILLINOIS BELL	86,687	105,395	(12,472)	-11.83%	14
INDIANA BELL	25,309	27,610	(1,534)	-5.56%	29
MICHIGAN BELL	47,817	60,153	(8,224)	-13.67%	11
OHIO BELL	42,017	61,697	(13,120)	-21.27%	4
WISCONSIN BELL	22,363	25,252	(1,926)	-7.63%	25
C & P (D.C.)	32,326	40,889	(5,709)	-13.96%	10
C & P of MARYLAND	37,061	43,116	(4,037)	-9.36%	17
C & P-of VIRGINIA	39,736	45,695	(3,973)	-8.69%	20
C & P OF WEST VIRGINIA	8,821	9,555	(489)	-5.12%	30
DIAMOND STATE TEL.	5,782	6,400	(412)	-6.44%	26
BELL OF PENNSYLVANIA	51,011	75,466	(16,303)	-21.60%	3
NEW JERSEY BELL	59,902	68,488	(5,724)	-8.36%	22
SOUTHERN BELL	141,834	174,502	(21,779)	-12.48%	12
SOUTH CENTRAL BELL	80,239	91,417	(7,452)	-8.15%	24
NEW ENGLAND TELEPHONE	52,603	75,002	(14,933)	-19.91%	6
NEW YORK TELEPHONE	186,087	212,715	(17,752)	-8.35%	23
PACIFIC BELL	109,850	171,267	(40,945)	-23.91%	1
NEVADA BELL	2,801	3,608	(538)	-14.91%	9
SOUTHWESTERN BELL TEL. CO.	158,702	220,536	(41,223)	-18.69%	7
MOUNTAIN BELL	66,302	95,750	(19,632)	-20.50%	5
NORTHWESTERN BELL	49,745	57,279	(5,023)	-8.77%	18
PACIFIC NORTHWEST BELL	29,597	34,752	(3,437)	-9.89%	15
CENTRAL OF FLORIDA	2,321	2,278	29	1.26%	33
CENTRAL OF NEVADA	5,050	5,778	(485)	-8.40%	21
CINCINNATI BELL TELEPHONE	13,326	20,733	(4,938)	-23.82%	2
CONTEL OF CALIFORNIA	1,000	940	40	4.26%	40
CONTEL OF NEW YORK	866	776	60	7.73%	43
CONTEL OF TEXAS	300	285	10	3.51%	38
CONTEL OF VIRGINIA	1,614	1,857	(162)	-8.72%	19
GTE OF CALIFORNIA	12,904	14,265	(907)	-6.36%	27
GTE OF FLORIDA	10,370	13,526	(2,104)	-15.56%	8
GTE OF THE NORTHWEST	7,927	6,625	868	13.10%	45
GTE OF THE SOUTH	13,036	12,559	318	2.53%	35
GTE OF THE SOUTHWEST	9,004	8,655	233	2.69%	36
GTE MIDWEST OPERATIONS	25,010	23,831	786	3.30%	37
HAWAIIAN TELEPHONE CO.	4,440	4,363	51	1.18%	32
LINCOLN TELEPHONE COMPANY	1,698	1,590	72	4.53%	41
ROCHESTER TELEPHONE CORPORATION	6,290	6,863	(382)	-5.57%	28
SOUTHERN NEW ENGLAND TELEPHONE	27,888	34,215	(4,218)	-12.33%	13
UNITED OF FLORIDA	3,810	3,273	358	10.94%	44
UNITED OF INDIANA	873	1,017	(96)	-9.44%	16
CAROLINA TEL. & TEL.	5,998	5,803	130	2.24%	34
UNITED OF OHIO	4,190	4,169	14	0.34%	31
UNITED OF PENN.	1,903	1,807	64	3.54%	39
UNITED INTER-MOUNTAIN	2,360	2,189	114	5.21%	42

DMD4
12/12/87

DMD4E

GROWTH IN HIGH CAPACITY SPECIAL ACCESS CHANNEL TERMINATION

COMPANY	PROSPECTIVE CHANNEL TERMINATION COL A	HISTORICAL CHANNEL TERMINATION COL B	DEMAND GROWTH COL C = (A - B)x2/3	PERCENTAGE OF DEMAND GROWTH COL D = C / B	RANK
AMERITECH	13,046	7,128	3,945	55.35%	7
BELL ATLANTIC	15,555	12,528	2,018	16.11%	2
BELL SOUTH	11,170	7,398	2,515	33.99%	4
NYNEX	15,170	9,663	3,671	37.99%	5
PACIFIC	9,854	6,760	2,063	30.51%	3
SOUTHWESTERN BELL TEL. CO.	8,610	7,344	844	11.49%	1
U.S. WEST	14,454	7,928	4,351	54.88%	6
CENTRAL TELEPHONE CO.	232	15	145	964.44%	11
CONTINENTAL TELEPHONE CO.	294	104	127	121.79%	10
GENERAL TELEPHONE OPERATING COs	2,334	859	983	114.47%	8
UNITED TELEPHONE SYSTEM	479	174	203	116.86%	9
TOTAL DIVESTED BELL OCs	87,859	58,749	19,407	33.03%	
TOTAL ICOs	6,233	2,825	2,272	80.42%	
TOTAL BOCs + ICOs	94,092	61,574	21,679	35.21%	
ILLINOIS BELL	4,476	3,009	978	32.50%	10
INDIANA BELL	1,489	478	674	141.00%	39
MICHIGAN BELL	3,262	1,860	935	50.25%	20
OHIO BELL	3,015	1,462	1,035	70.82%	29
WISCONSIN BELL	804	319	323	101.36%	34
C & P (D.C.)	1,827	1,427	267	18.69%	7
C & P of MARYLAND	2,095	1,470	417	28.34%	8
C & P of VIRGINIA	2,166	1,265	601	47.48%	19
C & P OF WEST VIRGINIA	230	70	107	152.38%	40
DIAMOND STATE TEL.	284	173	74	42.77%	17
BELL OF PENNSYLVANIA	5,272	3,297	1,317	39.94%	16
NEW JERSEY BELL	3,681	4,826	(763)	-15.82%	1
SOUTHERN BELL	8,046	5,319	1,818	34.18%	12
SOUTH CENTRAL BELL	3,124	2,079	697	33.51%	11
NEW ENGLAND TELEPHONE	4,569	3,004	1,043	34.73%	13
NEW YORK TELEPHONE	10,601	6,659	2,628	39.47%	15
PACIFIC BELL	9,636	6,637	1,999	30.12%	9
NEVADA BELL	218	123	63	51.49%	22
SOUTHWESTERN BELL TEL. CO.	8,610	7,344	844	11.49%	5
MOUNTAIN BELL	6,759	3,424	2,223	64.93%	27
NORTHWESTERN BELL	3,467	1,973	996	50.48%	21
PACIFIC NORTHWEST BELL	4,228	2,531	1,131	44.70%	18
CENTRAL OF FLORIDA	8	8	0	0.00%	2
CENTRAL OF NEVADA	224	7	145	2066.67%	44
CINCINNATI BELL TELEPHONE	900	430	313	72.87%	31
CONTEL OF CALIFORNIA	42	40	1	3.33%	4
CONTEL OF NEW YORK	27	23	3	11.59%	6
CONTEL OF TEXAS	3	3	0	0.00%	3
CONTEL OF VIRGINIA	222	38	123	322.81%	42
GTE OF CALIFORNIA	406	140	177	126.67%	37
GTE OF FLORIDA	554	302	168	55.63%	24
GTE OF THE NORTHWEST	135	71	43	60.09%	26
GTE OF THE SOUTH	432	63	246	390.48%	43
GTE OF THE SOUTHWEST	347	174	115	66.28%	28
GTE MIDWEST OPERATIONS	295	109	124	113.76%	36
HAWAIIAN TELEPHONE CO.	165	0	110	ERR	45
LINCOLN TELEPHONE COMPANY	86	39	31	80.34%	32
ROCHESTER TELEPHONE CORPORATION	356	191	110	57.59%	25
SOUTHERN NEW ENGLAND TELEPHONE	1,552	1,013	359	35.47%	14
UNITED OF FLORIDA	164	61	69	112.57%	35
UNITED OF INDIANA	56	27	19	71.60%	30
CAROLINA TEL. & TEL.	18	10	5	53.33%	23
UNITED OF OHIO	191	56	90	160.71%	41
UNITED OF PENN.	38	16	15	91.67%	33
UNITED INTER-MOUNTAIN	12	4	5	133.33%	38

ERNIA

EARNINGS COMPARISON
ERNI
12/14/87

COMPANY		TOTAL ACCESS RATE OF RETURN (10/1/85 THRU 12/31/86)	RANK
ILLINOIS BELL		12.10%	68
INDIANA BELL		12.61%	42
MICHIGAN BELL		12.99%	29
OHIO BELL		12.72%	35
WISCONSIN BELL		13.60%	15
C & P (D.C.)		13.33%	18
C & P of MARYLAND		12.17%	65
C & P of VIRGINIA		12.23%	63
C & P of WEST VIRGINIA		13.15%	25
DIAMOND STATE TEL.		12.50%	52
BELL OF PENNSYLVANIA		11.98%	76
NEW JERSEY BELL		13.17%	22
SOUTHERN BELL	FLORIDA	11.57%	85
SOUTHERN BELL	GEORGIA	11.98%	77
SOUTHERN BELL	NORTH CAROLINA	13.42%	16
SOUTHERN BELL	SOUTH CAROLINA	12.12%	67
SOUTH CENTRAL BELL	ALABAMA	13.16%	24
SOUTH CENTRAL BELL	KENTUCKY	12.66%	38
SOUTH CENTRAL BELL	LOUISIANA	10.86%	98
SOUTH CENTRAL BELL	MISSISSIPPI	12.50%	51
SOUTH CENTRAL BELL	TENNESSEE	11.59%	84
NEW ENGLAND TELEPHONE		11.43%	89
NEW ENGLAND TELEPHONE	MAINE	11.08%	96
NEW ENGLAND TELEPHONE	MASSACHUSETTS	11.46%	88
NEW ENGLAND TELEPHONE	NEW HAMPSHIRE	11.27%	92
NEW ENGLAND TELEPHONE	RHODE ISLAND	12.45%	53
NEW ENGLAND TELEPHONE	VERMONT	11.28%	91
NEW YORK TELEPHONE		10.35%	99
PACIFIC BELL	CALIFORNIA	13.15%	26
NEVADA BELL	NEVADA	0.00%	105
SOUTHWESTERN BELL TEL. CO.		0.00%	104
SOUTHWESTERN BELL TEL. CO.	ARKANSAS	12.20%	64
SOUTHWESTERN BELL TEL. CO.	KANSAS	13.75%	11
SOUTHWESTERN BELL TEL. CO.	MISSOURI	13.95%	9
SOUTHWESTERN BELL TEL. CO.	OKLAHOMA	12.61%	41
SOUTHWESTERN BELL TEL. CO.	TEXAS	12.25%	62
MOUNTAIN BELL		0.00%	103
MOUNTAIN BELL	ARIZONA	12.26%	60
MOUNTAIN BELL	COLORADO	12.53%	46
MOUNTAIN BELL	IDAHO	12.85%	32
MOUNTAIN BELL	MONTANA	12.82%	33
MOUNTAIN BELL	NEW MEXICO	13.16%	23
MOUNTAIN BELL	UTAH	12.51%	47
MOUNTAIN BELL	WYOMING	12.63%	40
NORTHWESTERN BELL		0.00%	102
NORTHWESTERN BELL	IOWA	13.61%	14
NORTHWESTERN BELL	MINNESOTA	13.29%	19
NORTHWESTERN BELL	NEBRASKA	13.71%	12
NORTHWESTERN BELL	NORTH DAKOTA	15.19%	4
NORTHWESTERN BELL	SOUTH DAKOTA	11.91%	79
PACIFIC NORTHWEST BELL		12.59%	43
PACIFIC NORTHWEST BELL	IDAHO	12.04%	74
PACIFIC NORTHWEST BELL	OREGON	12.80%	34
PACIFIC NORTHWEST BELL	WASHINGTON	12.10%	69
CENTRAL OF FLORIDA		11.08%	97
CENTRAL OF NEVADA		12.69%	37
CINCINNATI BELL TELEPHONE		11.23%	93
CONTEL OF CALIFORNIA		16.61%	2
CONTEL OF NEW YORK		15.35%	3
CONTEL OF TEXAS		15.08%	5
CONTEL OF VIRGINIA		12.26%	61
GTE OF CALIFORNIA		12.37%	55
GTE OF FLORIDA		12.34%	57

ERNIA

EARNINGS COMPARISON
ERNI
12/14/87

COMPANY		TOTAL ACCESS RATE OF RETURN (10/1/85 THRU 12/31/86)	RANK
GTE-ID & MT		11.29%	90
GTE	IDAHO	11.18%	95
GTE	MONTANA	13.19%	21
GTE-OR, WA & WESTN CA		11.93%	78
GTE	OREGON	11.68%	83
GTE	WASHINGTON	12.17%	66
GTE	ALABAMA	13.05%	28
GTE	GEORGIA	12.30%	59
GTE	KENTUCKY	11.89%	80
GTE	NORTH CAROLINA	8.87%	101
GTE	SOUTH CAROLINA	10.04%	100
GTE	TENNESSEE	13.87%	10
GTE VA & WV		12.51%	50
GTE	VIRGINIA	17.20%	1
GTE	WEST VIRGINIA	11.23%	94
GTE OF THE SOUTHWEST		13.23%	20
GTE	ARKANSAS	13.64%	13
GTE	NEW MEXICO	12.51%	49
GTE	OKLAHOMA	12.01%	75
GTE	TEXAS	13.41%	17
GTE	ILLINOIS	11.80%	81
GTE	INDIANA	13.13%	27
GTE	IOWA	14.32%	7
GTE	MICHIGAN	12.69%	36
GTE	MINNESOTA	11.54%	86
GTE	MISSOURI	13.98%	8
GTE	NEBRASKA & KANSAS	12.04%	73
GTE	OHIO	12.98%	30
GTE	PENNSYLVANIA	11.74%	82
GTE	WISCONSIN	15.00%	6
HAWAIIAN TELEPHONE CO.		12.88%	31
LINCOLN TELEPHONE COMPANY		12.41%	54
ROCHESTER TELEPHONE CORPORATION		12.31%	58
SOUTHERN NEW ENGLAND TELEPHONE		12.06%	71
UNITED OF FLORIDA		12.58%	44
UNITED OF INDIANA		12.06%	72
CAROLINA TEL. & TEL.		12.51%	48
UNITED OF OHIO		12.64%	39
UNITED OF PENNSYLVANIA		12.57%	45
UNITED INTER-MOUNTAIN		12.09%	70
UNITED	TENNESSEE	12.35%	56
UNITED	VIRGINIA	11.51%	87

EARNINGS COMPARISON
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12/14/87

ERN1B

COMPANY		TOTAL ACCESS RATE OF RETURN (1/1/87 THRU 6/30/87)	RANK
ILLINOIS BELL		8.55%	97
INDIANA BELL		13.74%	10
MICHIGAN BELL		9.73%	93
OHIO BELL		11.81%	67
WISCONSIN BELL		12.48%	47
C & P (D.C.)		10.54%	88
C & P of MARYLAND		10.45%	89
C & P of VIRGINIA		10.71%	84
C & P of WEST VIRGINIA		13.82%	16
DIAMOND STATE TEL.		14.28%	10
BELL OF PENNSYLVANIA		12.36%	48
NEW JERSEY BELL		12.16%	56
SOUTHERN BELL	FLORIDA	13.39%	21
SOUTHERN BELL	GEORGIA	11.81%	68
SOUTHERN BELL	NORTH CAROLINA	14.32%	8
SOUTHERN BELL	SOUTH CAROLINA	12.26%	51
SOUTH CENTRAL BELL	ALABAMA	13.53%	19
SOUTH CENTRAL BELL	KENTUCKY	11.86%	65
SOUTH CENTRAL BELL	LOUISIANA	11.67%	71
SOUTH CENTRAL BELL	MISSISSIPPI	12.54%	45
SOUTH CENTRAL BELL	TENNESSEE	12.06%	58
NEW ENGLAND TELEPHONE		11.93%	64
NEW ENGLAND TELEPHONE	MAINE	14.45%	6
NEW ENGLAND TELEPHONE	MASSACHUSETTS	10.64%	86
NEW ENGLAND TELEPHONE	NEW HAMPSHIRE	14.49%	5
NEW ENGLAND TELEPHONE	RHODE ISLAND	9.28%	94
NEW ENGLAND TELEPHONE	VERMONT	13.39%	22
NEW YORK TELEPHONE		12.01%	61
PACIFIC BELL	CALIFORNIA	11.44%	74
NEVADA BELL	NEVADA	0.00%	103
SOUTHWESTERN BELL TEL. CO.		0.00%	104
SOUTHWESTERN BELL TEL. CO.	ARKANSAS	13.92%	14
SOUTHWESTERN BELL TEL. CO.	KANSAS	15.26%	2
SOUTHWESTERN BELL TEL. CO.	MISSOURI	13.83%	15
SOUTHWESTERN BELL TEL. CO.	OKLAHOMA	12.00%	62
SOUTHWESTERN BELL TEL. CO.	TEXAS	11.95%	63
MOUNTAIN BELL		0.00%	102
MOUNTAIN BELL	ARIZONA	12.55%	44
MOUNTAIN BELL	COLORADO	13.33%	26
MOUNTAIN BELL	IDAHO	11.82%	66
MOUNTAIN BELL	MONTANA	10.01%	91
MOUNTAIN BELL	NEW MEXICO	11.37%	76
MOUNTAIN BELL	UTAH	12.57%	43
MOUNTAIN BELL	WYOMING	10.60%	87
NORTHWESTERN BELL		0.00%	105
NORTHWESTERN BELL	IOWA	13.28%	27
NORTHWESTERN BELL	MINNESOTA	12.19%	53
NORTHWESTERN BELL	NEBRASKA	12.28%	50
NORTHWESTERN BELL	NORTH DAKOTA	13.28%	28
NORTHWESTERN BELL	SOUTH DAKOTA	12.05%	59
PACIFIC NORTHWEST BELL		13.34%	24
PACIFIC NORTHWEST BELL	IDAHO	14.96%	3
PACIFIC NORTHWEST BELL	OREGON	13.49%	20
PACIFIC NORTHWEST BELL	WASHINGTON	13.22%	29
CENTRAL OF FLORIDA		12.04%	60
CENTRAL OF NEVADA		14.45%	7
CINCINNATI BELL TELEPHONE		10.32%	90
CONTEL OF CALIFORNIA		6.81%	99
CONTEL OF NEW YORK		6.47%	100
CONTEL OF TEXAS		6.02%	101
CONTEL OF VIRGINIA		12.91%	37
GTE OF CALIFORNIA		8.81%	96
GTE OF FLORIDA		12.17%	54

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EARNINGS COMPARISON
ERNI
12/14/87

COMPANY		TOTAL ACCESS RATE OF RETURN (1/1/87 THRU 6/30/87)	RANK
GTE-ID & MT		11.68%	70
GTE	IDAHO	11.69%	69
GTE	MONTANA	11.56%	73
GTE-OR, WA & WESTN CA		12.52%	46
GTE	OREGON	13.15%	31
GTE	WASHINGTON	12.17%	55
GTE	ALABAMA	13.37%	23
GTE	GEORGIA	11.12%	80
GTE	KENTUCKY	12.30%	49
GTE	NORTH CAROLINA	12.10%	57
GTE	SOUTH CAROLINA	8.89%	95
GTE	TENNESSEE	7.53%	98
GTE VA & WV		13.78%	17
GTE	VIRGINIA	16.91%	1
GTE	WEST VIRGINIA	12.94%	36
GTE OF THE SOUTHWEST		12.75%	39
GTE	ARKANSAS	11.34%	77
GTE	NEW MEXICO	11.58%	72
GTE	OKLAHOMA	11.01%	82
GTE	TEXAS	13.11%	33
GTE	ILLINOIS	11.33%	78
GTE	INDIANA	11.40%	75
GTE	IOWA	11.16%	79
GTE	MICHIGAN	12.64%	41
GTE	MINNESOTA	13.15%	30
GTE	MISSOURI	14.78%	4
GTE	NEBRASKA & KANSAS	12.72%	40
GTE	OHIO	9.99%	92
GTE	PENNSYLVANIA	10.95%	83
GTE	WISCONSIN	12.57%	42
HAWAIIAN TELEPHONE CO.		14.28%	9
LINCOLN TELEPHONE COMPANY		11.10%	81
ROCHESTER TELEPHONE CORPORATION		10.69%	85
SOUTHERN NEW ENGLAND TELEPHONE		13.12%	32
UNITED OF FLORIDA		13.33%	25
UNITED OF INDIANA		12.25%	52
CAROLINA TEL. & TEL.		13.03%	34
UNITED OF OHIO		12.88%	38
UNITED OF PENNSYLVANIA		12.95%	35
UNITED INTER-MOUNTAIN		14.05%	11
UNITED	TENNESSEE	13.93%	13
UNITED	VIRGINIA	14.05%	12

ERNIC

EARNINGS COMPARISON
ERNI
12/14/87

COMPANY		TRAFFIC SENSITIVE SWITCHED RATE OF RETURN (10/1/85 THRU 12/31/86)	RANK
ILLINOIS BELL		12.66%	61
INDIANA BELL		12.92%	49
MICHIGAN BELL		13.37%	42
OHIO BELL		12.98%	48
WISCONSIN BELL		16.66%	9
C & P (D.C.)		14.11%	33
C & P of MARYLAND		12.61%	63
C & P of VIRGINIA		13.03%	46
C & P of WEST VIRGINIA		15.44%	16
DIAMOND STATE TEL.		11.24%	88
BELL OF PENNSYLVANIA		12.67%	58
NEW JERSEY BELL		14.74%	23
SOUTHERN BELL	FLORIDA	12.67%	59
SOUTHERN BELL	GEORGIA	13.57%	37
SOUTHERN BELL	NORTH CAROLINA	15.19%	18
SOUTHERN BELL	SOUTH CAROLINA	12.71%	57
SOUTH CENTRAL BELL	ALABAMA	14.52%	26
SOUTH CENTRAL BELL	KENTUCKY	13.47%	40
SOUTH CENTRAL BELL	LOUISIANA	9.77%	100
SOUTH CENTRAL BELL	MISSISSIPPI	13.54%	39
SOUTH CENTRAL BELL	TENNESSEE	10.64%	93
NEW ENGLAND TELEPHONE		11.43%	85
NEW ENGLAND TELEPHONE	MAINE	10.85%	92
NEW ENGLAND TELEPHONE	MASSACHUSETTS	11.46%	83
NEW ENGLAND TELEPHONE	NEW HAMPSHIRE	11.46%	84
NEW ENGLAND TELEPHONE	RHODE ISLAND	12.91%	51
NEW ENGLAND TELEPHONE	VERMONT	11.25%	87
NEW YORK TELEPHONE		11.24%	89
PACIFIC BELL	CALIFORNIA	14.51%	27
NEVADA BELL	NEVADA	11.80%	72
SOUTHWESTERN BELL TEL. CO.		0.00%	105
SOUTHWESTERN BELL TEL. CO.	ARKANSAS	14.21%	30
SOUTHWESTERN BELL TEL. CO.	KANSAS	16.21%	12
SOUTHWESTERN BELL TEL. CO.	MISSOURI	14.93%	21
SOUTHWESTERN BELL TEL. CO.	OKLAHOMA	11.62%	80
SOUTHWESTERN BELL TEL. CO.	TEXAS	11.94%	70
MOUNTAIN BELL		0.00%	104
MOUNTAIN BELL	ARIZONA	14.60%	25
MOUNTAIN BELL	COLORADO	13.19%	44
MOUNTAIN BELL	IDAHO	15.81%	13
MOUNTAIN BELL	MONTANA	15.20%	17
MOUNTAIN BELL	NEW MEXICO	14.97%	19
MOUNTAIN BELL	UTAH	13.67%	35
MOUNTAIN BELL	WYOMING	14.93%	20
NORTHWESTERN BELL		0.00%	103
NORTHWESTERN BELL	IOWA	14.64%	24
NORTHWESTERN BELL	MINNESOTA	14.33%	28
NORTHWESTERN BELL	NEBRASKA	15.79%	14
NORTHWESTERN BELL	NORTH DAKOTA	19.70%	2
NORTHWESTERN BELL	SOUTH DAKOTA	11.76%	74
PACIFIC NORTHWEST BELL		13.55%	38
PACIFIC NORTHWEST BELL	IDAHO	10.08%	96
PACIFIC NORTHWEST BELL	OREGON	14.76%	22
PACIFIC NORTHWEST BELL	WASHINGTON	11.70%	77
CENTRAL OF FLORIDA		11.51%	82
CENTRAL OF NEVADA		12.51%	64
CINCINNATI BELL TELEPHONE		11.68%	78
CONTEL OF CALIFORNIA		20.31%	1
CONTEL OF NEW YORK		15.57%	15
CONTEL OF TEXAS		14.25%	29
CONTEL OF VIRGINIA		12.81%	55
GTE OF CALIFORNIA		12.78%	56
GTE OF FLORIDA		12.17%	67

ERNIC

EARNINGS COMPARISON
ERN1
12/14/87

COMPANY		TRAFFIC SENSITIVE SWITCHED RATE OF RETURN (10/1/85 THRU 12/31/86)	RANK
GTE-ID & MT		10.04%	97
GTE	IDAHO	9.90%	99
GTE	MONTANA	13.61%	36
GTE-OR, WA & WESTN CA		11.59%	81
GTE	OREGON	11.20%	90
GTE	WASHINGTON	11.97%	69
GTE	ALABAMA	13.27%	43
GTE	GEORGIA	13.02%	47
GTE	KENTUCKY	11.70%	76
GTE	NORTH CAROLINA	8.00%	102
GTE	SOUTH CAROLINA	8.32%	101
GTE	TENNESSEE	17.47%	6
GTE VA & WV		12.20%	66
GTE	VIRGINIA	17.66%	5
GTE	WEST VIRGINIA	10.89%	91
GTE OF THE SOUTHWEST		16.24%	11
GTE	ARKANSAS	17.14%	7
GTE	NEW MEXICO	14.19%	31
GTE	OKLAHOMA	12.67%	60
GTE	TEXAS	16.77%	8
GTE	ILLINOIS	10.15%	95
GTE	INDIANA	11.39%	86
GTE	IOWA	18.46%	3
GTE	MICHIGAN	12.84%	53
GTE	MINNESOTA	10.00%	98
GTE	MISSOURI	16.46%	10
GTE	NEBRASKA & KANSAS	11.79%	73
GTE	OHIO	12.01%	68
GTE	PENNSYLVANIA	10.61%	94
GTE	WISCONSIN	18.15%	4
HAWAIIAN TELEPHONE CO.		13.42%	41
LINCOLN TELEPHONE COMPANY		11.80%	71
ROCHESTER TELEPHONE CORPORATION		11.71%	75
SOUTHERN NEW ENGLAND TELEPHONE		14.12%	32
UNITED OF FLORIDA		12.92%	50
UNITED OF INDIANA		12.83%	54
CAROLINA TEL. & TEL.		12.91%	52
UNITED OF OHIO		13.04%	45
UNITED OF PENNSYLVANIA		13.92%	34
UNITED INTER-MOUNTAIN		12.33%	65
UNITED	TENNESSEE	12.62%	62
UNITED	VIRGINIA	11.65%	79

ERNID

EARNINGS COMPARISON
ERN1
12/14/87

COMPANY		TRAFFIC SENSITIVE SWITCHED RATE OF RETURN (1/1/87 THRU 6/30/87)	RANK
ILLINOIS BELL		7.10%	96
INDIANA BELL		15.29%	32
MICHIGAN BELL		8.89%	90
OHIO BELL		11.82%	73
WISCONSIN BELL		13.06%	61
C & P (D.C.)		8.77%	91
C & P of MARYLAND		10.64%	86
C & P of VIRGINIA		12.65%	64
C & P of WEST VIRGINIA		19.05%	9
DIAMOND STATE TEL.		17.26%	15
BELL OF PENNSYLVANIA		12.20%	71
NEW JERSEY BELL		13.57%	53
SOUTHERN BELL	FLORIDA	20.59%	5
SOUTHERN BELL	GEORGIA	15.28%	33
SOUTHERN BELL	NORTH CAROLINA	21.87%	4
SOUTHERN BELL	SOUTH CAROLINA	16.30%	21
SOUTH CENTRAL BELL	ALABAMA	20.04%	6
SOUTH CENTRAL BELL	KENTUCKY	13.61%	52
SOUTH CENTRAL BELL	LOUISIANA	16.17%	22
SOUTH CENTRAL BELL	MISSISSIPPI	13.05%	62
SOUTH CENTRAL BELL	TENNESSEE	14.41%	41
NEW ENGLAND TELEPHONE		13.10%	60
NEW ENGLAND TELEPHONE	MAINE	15.16%	34
NEW ENGLAND TELEPHONE	MASSACHUSETTS	12.33%	69
NEW ENGLAND TELEPHONE	NEW HAMPSHIRE	14.79%	38
NEW ENGLAND TELEPHONE	RHODE ISLAND	10.17%	87
NEW ENGLAND TELEPHONE	VERMONT	13.45%	56
NEW YORK TELEPHONE		11.27%	81
PACIFIC BELL	CALIFORNIA	11.36%	79
NEVADA BELL	NEVADA	11.72%	76
SOUTHWESTERN BELL TEL. CO.		0.00%	105
SOUTHWESTERN BELL TEL. CO.	ARKANSAS	21.94%	3
SOUTHWESTERN BELL TEL. CO.	KANSAS	18.48%	10
SOUTHWESTERN BELL TEL. CO.	MISSOURI	15.30%	31
SOUTHWESTERN BELL TEL. CO.	OKLAHOMA	12.59%	65
SOUTHWESTERN BELL TEL. CO.	TEXAS	14.08%	45
MOUNTAIN BELL		0.00%	104
MOUNTAIN BELL	ARIZONA	13.82%	46
MOUNTAIN BELL	COLORADO	14.35%	42
MOUNTAIN BELL	IDAHO	7.35%	95
MOUNTAIN BELL	MONTANA	6.03%	101
MOUNTAIN BELL	NEW MEXICO	11.25%	82
MOUNTAIN BELL	UTAH	12.47%	67
MOUNTAIN BELL	WYOMING	8.73%	92
NORTHWESTERN BELL		0.00%	103
NORTHWESTERN BELL	IOWA	16.14%	23
NORTHWESTERN BELL	MINNESOTA	13.62%	51
NORTHWESTERN BELL	NEBRASKA	14.59%	40
NORTHWESTERN BELL	NORTH DAKO	15.31%	30
NORTHWESTERN BELL	SOUTH DAKO	11.74%	75
PACIFIC NORTHWEST BELL		17.16%	16
PACIFIC NORTHWEST BELL	IDAHO	22.94%	2
PACIFIC NORTHWEST BELL	OREGON	17.97%	12
PACIFIC NORTHWEST BELL	WASHINGTON	16.60%	19
CENTRAL OF FLORIDA		16.95%	17
CENTRAL OF NEVADA		16.92%	18
CINCINNATI BELL TELEPHONE		11.31%	80
CONTEL OF CALIFORNIA		9.39%	89
CONTEL OF NEW YORK		6.18%	100
CONTEL OF TEXAS		7.03%	98
CONTEL OF VIRGINIA		12.52%	66
GTE OF CALIFORNIA		6.60%	99
GTE OF FLORIDA		13.50%	54

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EARNINGS COMPARISON
ERN1
12/14/87

COMPANY		TRAFFIC SENSITIVE SWITCHED RATE OF RETURN (1/1/87 THRU 6/30/87)	RANK
GTE-ID & MT		13.23%	58
GTE	IDAHO	13.31%	57
GTE	MONTANA	11.65%	77
GTE-OR, WA & WESTN CA		14.19%	43
GTE	OREGON	15.40%	27
GTE	WASHINGTON	13.50%	55
GTE	ALABAMA	16.40%	20
GTE	GEORGIA	12.43%	68
GTE	KENTUCKY	12.99%	63
GTE	NORTH CAROLINA	11.61%	78
GTE	SOUTH CAROLINA	7.52%	93
GTE	TENNESSEE	3.29%	102
GTE VA & WV		15.82%	25
GTE	VIRGINIA	25.40%	1
GTE	WEST VIRGINIA	13.77%	48
GTE OF THE SOUTHWEST		14.73%	39
GTE	ARKANSAS	12.25%	70
GTE	NEW MEXICO	13.65%	50
GTE	OKLAHOMA	10.95%	84
GTE	TEXAS	15.36%	28
GTE	ILLINOIS	12.01%	72
GT	INDIANA	10.76%	85
G	IOWA	11.10%	83
G	MICHIGAN	13.80%	47
GT	MINNESOTA	15.69%	26
GTE	MISSOURI	18.34%	11
GTE	NEBRASKA & KANSAS	15.00%	35
GTE	OHIO	7.41%	94
GTE	PENNSYLVANIA	10.11%	88
GTE	WISCONSIN	13.17%	59
HAWAIIAN TELEPHONE CO.		16.09%	24
LINCOLN TELEPHONE COMPANY		11.80%	74
ROCHESTER TELEPHONE CORPORATION		7.06%	97
SOUTHERN NEW ENGLAND TELEPHONE		14.96%	36
UNITED OF FLORIDA		17.93%	13
UNITED OF INDIANA		15.36%	29
CAROLINA TEL. & TEL.		14.79%	37
UNITED OF OHIO		13.72%	49
UNITED OF PENNSYLVANIA		14.17%	44
UNITED INTER-MOUNTAIN		19.79%	8
UNITED	TENNESSEE	17.43%	14
UNITED	VIRGINIA	19.79%	7

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EARNINGS COMPARISON
ERNI
12/T4/87

COMPANY		TRAFFIC SENSITIVE SPECIAL RATE OF RETURN (10/1/85 THRU 12/31/86)	RANK
ILLINOIS BELL		10.87%	48
INDIANA BELL		12.86%	30
MICHIGAN BELL		12.61%	32
OHIO BELL		13.09%	28
WISCONSIN BELL		10.36%	51
C & P (D.C.)		12.58%	33
C & P of MARYLAND		10.51%	50
C & P of VIRGINIA		9.54%	58
C & P of WEST VIRGINIA		10.02%	54
DIAMOND STATE TEL.		15.65%	14
BELL OF PENNSYLVANIA		9.37%	61
NEW JERSEY BELL		12.53%	35
SOUTHERN BELL	FLORIDA	5.87%	93
SOUTHERN BELL	GEORGIA	9.38%	60
SOUTHERN BELL	NORTH CAROLINA	13.25%	25
SOUTHERN BELL	SOUTH CAROLINA	10.01%	55
SOUTH CENTRAL BELL	ALABAMA	13.90%	22
SOUTH CENTRAL BELL	KENTUCKY	11.78%	40
SOUTH CENTRAL BELL	LOUISIANA	7.10%	87
SOUTH CENTRAL BELL	MISSISSIPPI	8.98%	67
SOUTH CENTRAL BELL	TENNESSEE	11.34%	43
NEW ENGLAND TELEPHONE		8.27%	73
NEW ENGLAND TELEPHONE	MAINE	8.26%	75
NEW ENGLAND TELEPHONE	MASSACHUSETTS	8.27%	74
NEW ENGLAND TELEPHONE	NEW HAMPSHIRE	8.25%	76
NEW ENGLAND TELEPHONE	RHODE ISLAND	8.29%	72
NEW ENGLAND TELEPHONE	VERMONT	8.25%	77
NEW YORK TELEPHONE		5.58%	95
PACIFIC BELL	CALIFORNIA	13.22%	26
NEVADA BELL	NEVADA	17.17%	10
SOUTHWESTERN BELL TEL. CO.		0.00%	105
SOUTHWESTERN BELL TEL. CO.	ARKANSAS	8.19%	78
SOUTHWESTERN BELL TEL. CO.	KANSAS	11.40%	42
SOUTHWESTERN BELL TEL. CO.	MISSOURI	15.43%	16
SOUTHWESTERN BELL TEL. CO.	OKLAHOMA	15.99%	13
SOUTHWESTERN BELL TEL. CO.	TEXAS	12.42%	37
MOUNTAIN BELL		0.00%	103
MOUNTAIN BELL	ARIZONA	4.63%	97
MOUNTAIN BELL	COLORADO	11.05%	46
MOUNTAIN BELL	IDAHO	6.22%	91
MOUNTAIN BELL	MONTANA	6.65%	88
MOUNTAIN BELL	NEW MEXICO	11.19%	45
MOUNTAIN BELL	UTAH	9.46%	59
MOUNTAIN BELL	WYOMING	8.06%	80
NORTHWESTERN BELL		0.00%	104
NORTHWESTERN BELL	IOWA	14.31%	19
NORTHWESTERN BELL	MINNESOTA	13.85%	23
NORTHWESTERN BELL	NEBRASKA	13.63%	24
NORTHWESTERN BELL	NORTH DAKOTA	16.01%	12
NORTHWESTERN BELL	SOUTH DAKOTA	9.21%	62
PACIFIC NORTHWEST BELL		11.61%	41
PACIFIC NORTHWEST BELL	IDAHO	15.09%	17
PACIFIC NORTHWEST BELL	OREGON	8.79%	69
PACIFIC NORTHWEST BELL	WASHINGTON	13.01%	29
CENTRAL OF FLORIDA		2.04%	102
CENTRAL OF NEVADA		18.41%	7
CINCINNATI BELL TELEPHONE		9.11%	65
CONTEL OF CALIFORNIA		10.21%	52
CONTEL OF NEW YORK		15.57%	15
CONTEL OF TEXAS		10.00%	56
CONTEL OF VIRGINIA		7.95%	81
GTE OF CALIFORNIA		10.09%	53
GTE OF FLORIDA		12.18%	38

ERNIE

EARNINGS COMPARISON
ERN1
12/14/87

COMPANY		TRAFFIC SENSITIVE SPECIAL RATE OF RETURN (10/1/85 THRU 12/31/86)	RANK
GTE-ID & MT		8.78%	70
GTE	IDAHO	7.84%	83
GTE	MONTANA	19.93%	4
GTE-OR, WA & WESTN CA		9.14%	64
GTE	OREGON	7.78%	84
GTE	WASHINGTON	10.59%	49
GTE	ALABAMA	16.50%	11
GTE	GEORGIA	7.87%	82
GTE	KENTUCKY	9.83%	57
GTE	NORTH CAROLINA	2.27%	101
GTE	SOUTH CAROLINA	4.42%	98
GTE	TENNESSEE	7.74%	85
GTE VA & WV		14.15%	21
GTE	VIRGINIA	44.47%	1
GTE	WEST VIRGINIA	6.18%	92
GTE OF THE SOUTHWEST		5.57%	96
GTE	ARKANSAS	8.09%	79
GTE	NEW MEXICO	6.30%	90
GTE	OKLAHOMA	2.66%	100
GTE	TEXAS	5.65%	94
GTE	ILLINOIS	18.84%	6
GTE	INDIANA	23.17%	3
GTE	IOWA	8.99%	66
GTE	MICHIGAN	14.26%	20
GTE	MINNESOTA	14.69%	18
GTE	MISSOURI	17.17%	9
GTE	NEBRASKA & KANSAS	8.75%	71
GTE	OHIO	23.49%	2
GTE	PENNSYLVANIA	12.57%	34
GTE	WISCONSIN	19.70%	5
HAWAIIAN TELEPHONE CO.		12.47%	36
LINCOLN TELEPHONE COMPANY		17.17%	8
ROCHESTER TELEPHONE CORPORATION		13.17%	27
SOUTHERN NEW ENGLAND TELEPHONE		6.58%	89
UNITED OF FLORIDA		12.84%	31
UNITED OF INDIANA		7.35%	86
CAROLINA TEL. & TEL.		11.22%	44
UNITED OF OHIO		11.98%	39
UNITED OF PENNSYLVANIA		8.89%	68
UNITED INTER-MOUNTAIN		9.16%	63
UNITED	TENNESSEE	10.97%	47
UNITED	VIRGINIA	3.09%	99

EARNINGS COMPARISON
ERN1
12/14/87

ERN1F

COMPANY		TRAFFIC SENSITIVE SPECIAL RATE OF RETURN (1/1/87 THRU 6/30/87)	RANK
ILLINOIS BELL		6.18%	88
INDIANA BELL		15.28%	23
MICHIGAN BELL		6.62%	87
OHIO BELL		11.49%	58
WISCONSIN BELL		14.06%	34
C & P (D.C.)		12.42%	42
C & P of MARYLAND		9.09%	75
C & P of VIRGINIA		7.75%	82
C & P of WEST VIRGINIA		7.21%	84
DIAMOND STATE TEL.		14.71%	26
BELL OF PENNSYLVANIA		14.36%	30
NEW JERSEY BELL		12.33%	43
SOUTHERN BELL	FLORIDA	11.21%	61
SOUTHERN BELL	GEORGIA	9.64%	70
SOUTHERN BELL	NORTH CAROLINA	10.59%	67
SOUTHERN BELL	SOUTH CAROLINA	7.42%	83
SOUTH CENTRAL BELL	ALABAMA	8.03%	81
SOUTH CENTRAL BELL	KENTUCKY	9.01%	76
SOUTH CENTRAL BELL	LOUISIANA	5.58%	93
SOUTH CENTRAL BELL	MISSISSIPPI	14.75%	25
SOUTH CENTRAL BELL	TENNESSEE	9.35%	72
NEW ENGLAND TELEPHONE		10.68%	64
NEW ENGLAND TELEPHONE	MAINE	14.28%	31
NEW ENGLAND TELEPHONE	MASSACHUSETTS	9.47%	71
NEW ENGLAND TELEPHONE	NEW HAMPSHIRE	13.91%	35
NEW ENGLAND TELEPHONE	RHODE ISLAND	8.32%	80
NEW ENGLAND TELEPHONE	VERMONT	13.50%	39
NEW YORK TELEPHONE		14.45%	29
PACIFIC BELL	CALIFORNIA	11.53%	56
NEVADA BELL	NEVADA	20.48%	5
SOUTHWESTERN BELL TEL. CO.		0.00%	102
SOUTHWESTERN BELL TEL. CO.	ARKANSAS	8.88%	77
SOUTHWESTERN BELL TEL. CO.	KANSAS	16.95%	15
SOUTHWESTERN BELL TEL. CO.	MISSOURI	15.81%	18
SOUTHWESTERN BELL TEL. CO.	OKLAHOMA	12.09%	51
SOUTHWESTERN BELL TEL. CO.	TEXAS	10.67%	65
MOUNTAIN BELL		0.00%	103
MOUNTAIN BELL	ARIZONA	13.62%	37
MOUNTAIN BELL	COLORADO	18.24%	10
MOUNTAIN BELL	IDAHO	25.68%	3
MOUNTAIN BELL	MONTANA	15.68%	20
MOUNTAIN BELL	NEW MEXICO	11.15%	62
MOUNTAIN BELL	UTAH	15.46%	21
MOUNTAIN BELL	WYOMING	10.22%	68
NORTHWESTERN BELL		0.00%	104
NORTHWESTERN BELL	IOWA	12.29%	45
NORTHWESTERN BELL	MINNESOTA	11.44%	60
NORTHWESTERN BELL	NEBRASKA	9.15%	74
NORTHWESTERN BELL	NORTH DAKOTA	14.60%	28
NORTHWESTERN BELL	SOUTH DAKOTA	11.71%	54
PACIFIC NORTHWEST BELL		12.19%	49
PACIFIC NORTHWEST BELL	IDAHO	9.82%	69
PACIFIC NORTHWEST BELL	OREGON	12.04%	52
PACIFIC NORTHWEST BELL	WASHINGTON	12.31%	44
CENTRAL OF FLORIDA		-2.36%	105
CENTRAL OF NEVADA		19.04%	7
CINCINNATI BELL TELEPHONE		5.94%	90
CONTEL OF CALIFORNIA		5.65%	92
CONTEL OF NEW YORK		15.02%	24
CONTEL OF TEXAS		4.95%	95
CONTEL OF VIRGINIA		25.60%	4
GTE OF CALIFORNIA		1.18%	101
GTE OF FLORIDA		11.59%	55

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EARNINGS COMPARISON
ERN1
12/14/87

TRAFFIC SENSITIVE
SPECIAL
RATE OF RETURN
(1/1/87
THRU
6/30/87)

COMPANY			RANK
GTE-ID & MT		2.32%	99
GTE	IDAHO	1.59%	100
GTE	MONTANA	12.19%	48
GTE-OR, WA & WESTN CA		11.46%	59
GTE	OREGON	12.00%	53
GTE	WASHINGTON	10.75%	63
GTE	ALABAMA	11.52%	57
GTE	GEORGIA	4.18%	97
GTE	KENTUCKY	13.38%	40
GTE	NORTH CAROLINA	15.31%	22
GTE	SOUTH CAROLINA	5.16%	94
GTE	TENNESSEE	2.55%	98
GTE VA & WV		17.63%	12
GTE	VIRGINIA	18.87%	8
GTE	WEST VIRGINIA	17.22%	14
GTE OF THE SOUTHWEST		12.78%	41
GTE	ARKANSAS	6.15%	89
GTE	NEW MEXICO	4.81%	96
GTE	OKLAHOMA	7.14%	85
GTE	TEXAS	14.13%	32
GTE	ILLINOIS	5.71%	91
GTE	INDIANA	13.76%	36
GTE	IOWA	8.47%	78
GTE	MICHIGAN	16.36%	16
GTE	MINNESOTA	29.67%	1
GTE	MISSOURI	27.42%	2
GTE	NEBRASKA & KANSAS	10.66%	66
GTE	OHIO	14.10%	33
GTE	PENNSYLVANIA	12.17%	50
GTE	WISCONSIN	19.72%	6
HAWAIIAN TELEPHONE CO.		15.91%	17
LINCOLN TELEPHONE COMPANY		8.41%	79
ROCHESTER TELEPHONE CORPORATION		17.51%	13
SOUTHERN NEW ENGLAND TELEPHONE		13.53%	38
UNITED OF FLORIDA		9.34%	73
UNITED OF INDIANA		7.02%	86
CAROLINA TEL. & TEL.		15.74%	19
UNITED OF OHIO		17.69%	11
UNITED OF PENNSYLVANIA		18.42%	9
UNITED INTER-MOUNTAIN		12.25%	46
UNITED	TENNESSEE	14.66%	27
UNITED	VIRGINIA	12.25%	47

RTE1
12/16/87

RTE1A ANALYSIS OF PREMIUM SWITCHED ACCESS RATES (EXCLU. CCL)

COMPANY		PROPOSED PREMIUM RATE CENTS PER MIN (EXCLU CCL) COL A	CURRENT PREMIUM RATE CENTS PER MIN (EXCLU CCL) COL B	PERCENTAGE CHANGE OF PROPOSED TO CURRENT RATE COL C	RANK
ILLINOIS BELL		0.0212	0.0207	2.55%	46
INDIANA BELL		0.0298	0.0289	3.11%	44
MICHIGAN BELL		0.0259	0.0240	7.93%	35
OHIO BELL		0.0233	0.0215	8.37%	34
WISCONSIN BELL		0.0226	0.0241	-6.22%	70
C & P (D.C.)		0.0217	0.0217	0.00%	56
C & P of MARYLAND		0.0217	0.0217	0.00%	57
C & P of VIRGINIA		0.0217	0.0217	0.00%	55
C & P of WEST VIRGINIA		0.0217	0.0217	0.00%	54
DIAMOND STATE TEL.		0.0217	0.0276	-21.38%	96
BELL OF PENNSYLVANIA		0.0217	0.0221	-1.81%	61
NEW JERSEY BELL		0.0217	0.0187	16.04%	16
SOUTHERN BELL	FLORIDA	0.0216	0.0268	-19.40%	94
SOUTHERN BELL	GEORGIA	0.0205	0.0192	6.77%	38
SOUTHERN BELL	NORTH CAROLINA	0.0213	0.0274	-22.26%	97
SOUTHERN BELL	SOUTH CAROLINA	0.0263	0.0276	-4.71%	68
SOUTH CENTRAL BELL	ALABAMA	0.0221	0.0286	-22.73%	99
SOUTH CENTRAL BELL	KENTUCKY	0.0266	0.0261	1.92%	48
SOUTH CENTRAL BELL	LOUISIANA	0.0239	0.0232	3.02%	45
SOUTH CENTRAL BELL	MISSISSIPPI	0.0289	0.0291	-0.69%	58
SOUTH CENTRAL BELL	TENNESSEE	0.0194	0.0215	-9.77%	75
NEW ENGLAND TELEPHONE		0.0299	0.0332	-9.99%	77
NEW ENGLAND TELEPHONE	MAINE	0.0299	0.0332	-9.99%	78
NEW ENGLAND TELEPHONE	MASSACHUSETTS	0.0299	0.0332	-9.99%	81
NEW ENGLAND TELEPHONE	NEW HAMPSHIRE	0.0299	0.0332	-9.99%	76
NEW ENGLAND TELEPHONE	RHODE ISLAND	0.0299	0.0332	-9.99%	80
NEW ENGLAND TELEPHONE	VERMONT	0.0299	0.0332	-9.99%	79
NEW YORK TELEPHONE		0.0363	0.0340	6.87%	37
PACIFIC BELL	CALIFORNIA	0.0332	0.0305	8.97%	32
NEVADA BELL	NEVADA	0.0331	0.0571	-42.07%	103
SOUTHWESTERN BELL TEL. CO.		NA	NA	NA	105
SOUTHWESTERN BELL TEL. CO.	ARKANSAS	0.0233	0.0352	-33.83%	102
SOUTHWESTERN BELL TEL. CO.	KANSAS	0.0316	0.0360	-12.29%	87
SOUTHWESTERN BELL TEL. CO.	MISSOURI	0.0233	0.0276	-15.59%	89
SOUTHWESTERN BELL TEL. CO.	OKLAHOMA	0.0233	0.0312	-25.41%	101
SOUTHWESTERN BELL TEL. CO.	TEXAS	0.0233	0.0229	1.89%	49
MOUNTAIN BELL		0.0345	0.0299	15.38%	20
MOUNTAIN BELL	ARIZONA	0.0345	0.0299	15.38%	23
MOUNTAIN BELL	COLORADO	0.0345	0.0299	15.38%	24
MOUNTAIN BELL	IDAHO	0.0345	0.0299	15.38%	21
MOUNTAIN BELL	MONTANA	0.0345	0.0299	15.38%	19
MOUNTAIN BELL	NEW MEXICO	0.0345	0.0299	15.38%	22
MOUNTAIN BELL	UTAH	0.0345	0.0299	15.38%	25
MOUNTAIN BELL	WYOMING	0.0345	0.0299	15.38%	18
NORTHWESTERN BELL		0.0273	0.0233	17.17%	15
NORTHWESTERN BELL	IOWA	0.0273	0.0233	17.17%	10
NORTHWESTERN BELL	MINNESOTA	0.0273	0.0233	17.17%	11
NORTHWESTERN BELL	NEBRASKA	0.0273	0.0233	17.17%	12
NORTHWESTERN BELL	NORTH DAKOTA	0.0273	0.0233	17.17%	13
NORTHWESTERN BELL	SOUTH DAKOTA	0.0273	0.0233	17.17%	14
PACIFIC NORTHWEST BELL		0.0287	0.0301	-4.65%	65
PACIFIC NORTHWEST BELL	IDAHO	0.0287	0.0301	-4.65%	66
PACIFIC NORTHWEST BELL	OREGON	0.0287	0.0301	-4.65%	64
PACIFIC NORTHWEST BELL	WASHINGTON	0.0287	0.0301	-4.65%	67
CENTRAL OF-FLORIDA		0.0278	0.0275	0.86%	52
CENTRAL OF NEVADA		0.0239	0.0308	-22.37%	98
CINCINNATI BELL TELEPHONE		0.0191	0.0189	1.12%	51
CONTEL OF CALIFORNIA		0.0607	0.0796	-23.76%	100
CONTEL OF NEW YORK		0.0376	0.0354	6.13%	39
CONTEL OF TEXAS		0.0593	0.0713	-16.84%	92
CONTEL OF VIRGINIA		0.0312	0.0370	-15.74%	90

RTE1
12/16/87

RTE1A ANALYSIS OF PREMIUM SWITCHED ACCESS RATES (EXCLU. CCL)

COMPANY		PROPOSED PREMIUM RATE CENTS PER MIN (EXCLU CCL) COL A	CURRENT PREMIUM RATE CENTS PER MIN (EXCLU CCL) COL B	PERCENTAGE CHANGE OF PROPOSED TO CURRENT RATE COL C	RANK
GTE OF CALIFORNIA		0.0465	0.0469	-0.96%	60
GTE OF FLORIDA		0.0415	0.0352	17.98%	9
GTE-ID & MT		0.0905	0.0699	29.43%	2
GTE	IDAHO	0.0905	0.0708	27.93%	4
GTE	MONTANA	0.0882	0.0570	54.61%	1
GTE-OR, WA & WESTN CA		0.0536	0.0486	10.30%	29
GTE	OREGON	0.0537	0.0481	11.57%	28
GTE	WASHINGTON	0.0531	0.0488	8.68%	33
GTE	ALABAMA	0.0461	0.0370	24.69%	8
GTE	GEORGIA	0.0454	0.0363	24.94%	6
GTE	KENTUCKY	0.0507	0.0461	9.98%	30
GTE	NORTH CAROLINA	0.0429	0.0409	4.90%	41
GTE	SOUTH CAROLINA	0.0579	0.0451	28.32%	3
GTE	TENNESSEE	0.0437	0.0405	7.87%	36
GTE VA & WV		0.0422	0.0412	2.45%	47
GTE	VIRGINIA	0.0481	0.0474	1.39%	50
GTE	WEST VIRGINIA	0.0401	0.0388	3.22%	42
GTE OF THE SOUTHWEST		0.0491	0.0548	-10.30%	82
GTE	ARKANSAS	0.0478	0.0520	-8.11%	73
GTE	NEW MEXICO	0.0621	0.0704	-11.76%	86
GTE	OKLAHOMA	0.0476	0.0536	-11.07%	85
GTE	TEXAS	0.0484	0.0541	-10.52%	84
GTE	ILLINOIS	0.0440	0.0380	15.56%	17
GTE	INDIANA	0.0511	0.0409	24.93%	7
GTE	IOWA	0.0354	0.0369	-4.10%	62
GTE	MICHIGAN	0.0467	0.0372	25.41%	5
GTE	MINNESOTA	0.0359	0.0400	-10.31%	83
GTE	MISSOURI	0.0411	0.0398	3.19%	43
GTE	NEBRASKA & KANSAS	0.0365	0.0347	5.04%	40
GTE	OHIO	0.0397	0.0350	13.37%	27
GTE	PENNSYLVANIA	0.0300	0.0299	0.25%	53
GTE	WISCONSIN	0.0407	0.0487	-16.37%	91
HAWAIIAN TELEPHONE CO.		0.0610	0.0639	-4.44%	63
LINCOLN TELEPHONE COMPANY		0.0470	0.0413	13.90%	26
ROCHESTER TELEPHONE CORPORATION		0.0302	0.0277	9.21%	31
SOUTHERN NEW ENGLAND TELEPHONE		0.0273	0.0292	-6.56%	71
UNITED OF FLORIDA		0.0587	0.0730	-19.51%	95
UNITED OF INDIANA		0.0784	0.0954	-17.82%	93
CAROLINA TEL. & TEL.		0.0534	0.0580	-8.01%	72
UNITED OF OHIO		0.0703	0.0710	-0.95%	59
UNITED OF PENNSYLVANIA		0.0545	0.0575	-5.21%	69
UNITED INTER-MOUNTAIN		NA	NA	NA	104
UNITED	TENNESSEE	0.0502	0.0555	-9.41%	74
UNITED	VIRGINIA	0.0491	0.0580	-15.27%	88

RTE2
11/19/87

RTE2A ANALYSIS OF SPECIAL ACCESS VOICE GRADE RATE CHANGES (4W, 10 MILE TRANS)

COMPANY		PROPOSED 4W VOICE GRADE 10 MILE TRANS RATE COL A	CURRENT 4W VOICE GRADE 10 MILE TRANS RATE COL B	PERCENTAGE CHANGE OF PROPOSED TO CURRENT RATE COL C	RANK
ILLINOIS BELL		120.17	90.5	32.78%	16
INDIANA BELL		126.4	154.28	-18.07%	94
MICHIGAN BELL		108.03	88.02	22.73%	39
OHIO BELL		120.78	103.7	16.47%	45
WISCONSIN BELL		135.39	126.64	6.91%	57
C & P (D.C.)		123	119.02	3.34%	76
C & P of MARYLAND		123	119.02	3.34%	75
C & P of VIRGINIA		123	119.02	3.34%	74
C & P of WEST VIRGINIA		123	119.02	3.34%	77
DIAMOND STATE TEL.		123	118.91	3.44%	72
BELL OF PENNSYLVANIA		123	117.2	4.95%	60
NE. JERSEY BELL		123	83.13	47.96%	4
SOUTHERN BELL	FLORIDA	117.16	116.69	0.40%	81
SOUTHERN BELL	GEORGIA	123.67	103.89	19.04%	43
SOUTHERN BELL	NORTH CAROLINA	127.12	122.93	3.41%	73
SOUTHERN BELL	SOUTH CAROLINA	137.86	107.56	28.17%	22
SOUTH CENTRAL BELL	ALABAMA	114.02	106.08	7.48%	56
SOUTH CENTRAL BELL	KENTUCKY	141.33	124.7	13.34%	47
SOUTH CENTRAL BELL	LOUISIANA	154.16	121.75	26.62%	24
SOUTH CENTRAL BELL	MISSISSIPPI	158.37	163.27	-3.00%	83
SOUTH CENTRAL BELL	TENNESSEE	124.18	114.14	8.80%	55
NEW ENGLAND TELEPHONE		156.26	112.69	38.66%	11
NEW ENGLAND TELEPHONE	MAINE	156.26	112.69	38.66%	9
NEW ENGLAND TELEPHONE	MASSACHUSETTS	156.26	112.69	38.66%	10
NEW ENGLAND TELEPHONE	NEW HAMPSHIRE	156.26	112.69	38.66%	7
NEW ENGLAND TELEPHONE	RHODE ISLAND	156.26	112.69	38.66%	8
NEW ENGLAND TELEPHONE	VERMONT	156.26	112.69	38.66%	6
NEW YORK TELEPHONE		194.06	182.68	6.23%	58
PACIFIC BELL	CALIFORNIA	114.57	116.88	-1.98%	82
NEVADA BELL	NEVADA	155.24	149.1	4.12%	61
SOUTHWESTERN BELL TEL. CO.		116.56	NA	NA	105
SOUTHWESTERN BELL TEL. CO.	ARKANSAS	116.56	169.32	-31.16%	99
SOUTHWESTERN BELL TEL. CO.	KANSAS	116.56	156.77	-25.65%	98
SOUTHWESTERN BELL TEL. CO.	MISSOURI	116.56	123.15	-5.35%	84
SOUTHWESTERN BELL TEL. CO.	OKLAHOMA	116.56	135.62	-14.05%	92
SOUTHWESTERN BELL TEL. CO.	TEXAS	116.56	104.54	11.50%	49
MOUNTAIN BELL		146.35	140.91	3.86%	65
MOUNTAIN BELL	ARIZONA	146.35	140.91	3.86%	64
MOUNTAIN BELL	COLORADO	146.35	140.91	3.86%	70
MOUNTAIN BELL	IDAHO	146.35	140.91	3.86%	67
MOUNTAIN BELL	MONTANA	146.35	140.91	3.86%	66
MOUNTAIN BELL	NEW MEXICO	146.35	140.91	3.86%	68
MOUNTAIN BELL	UTAH	146.35	140.91	3.86%	69
MOUNTAIN BELL	WYOMING	146.35	140.91	3.86%	63
NORTHWESTERN BELL		179.45	144.65	24.06%	35
NORTHWESTERN BELL	IOWA	179.45	144.65	24.06%	31
NORTHWESTERN BELL	MINNESOTA	179.45	144.65	24.06%	33
NORTHWESTERN BELL	NEBRASKA	179.45	144.65	24.06%	34
NORTHWESTERN BELL	NORTH DAKOTA	179.45	144.65	24.06%	30
NORTHWESTERN BELL	SOUTH DAKOTA	179.45	144.65	24.06%	32
PACIFIC NORTHWEST BELL		134.54	148.65	-9.49%	90
PACIFIC NORTHWEST BELL	IDAHO	134.54	148.65	-9.49%	88
PACIFIC NORTHWEST BELL	OREGON	134.54	148.65	-9.49%	87
PACIFIC NORTHWEST BELL	WASHINGTON	134.54	148.65	-9.49%	89
CENTRAL OF FLORIDA		183.06	136.45	34.16%	15
CENTRAL OF NEVADA		43.34	31.74	36.55%	14
CINCINNATI BELL TELEPHONE		101.07	79.69	26.83%	29
CONTEL OF CALIFORNIA		231.88	178.75	29.72%	19
CONTEL OF NEW YORK		131.87	219.71	-39.98%	103
CONTEL OF TEXAS		257.12	169.53	51.67%	3
CONTEL OF VIRGINIA		137.62	133.9	2.78%	78
GTE OF CALIFORNIA		276.74	197.26	40.29%	5

RTE2
11/19/87

RTE2A ANALYSIS OF SPECIAL ACCESS VOICE GRADE RATE CHANGES (4W, 10 MILE TRANS)

COMPANY		PROPOSED 4W VOICE GRADE 10 MILE TRANS RATE COL A	CURRENT 4W VOICE GRADE 10 MILE TRANS RATE COL B	PERCENTAGE CHANGE OF PROPOSED TO CURRENT RATE COL C	RANK
GTE OF FLORIDA		181.62	152.8	18.86%	44
GTE-ID & MT		245.86	205.94	19.38%	41
GTE	IDAHO	245.84	205.94	19.37%	42
GTE	MONTANA	136.38	205.94	-32.81%	101
GTE-OR, WA & WESTN CA		171.84	139.06	23.57%	36
GTE	OREGON	171.84	139.06	23.57%	37
GTE	WASHINGTON	171.84	139.06	23.57%	38
GTE	ALABAMA	100.34	107.46	-6.63%	85
GTE	GEORGIA	198.18	152.3	30.12%	18
GTE	KENTUCKY	116.74	88.14	32.45%	17
GTE	NORTH CAROLINA	151.92	175.84	-13.60%	91
GTE	SOUTH CAROLINA	193.78	158.12	22.55%	40
GTE	TENNESSEE	129.08	124	4.10%	62
GTE VA & WV		168.8	153.36	10.07%	53
GTE	VIRGINIA	168.8	153.36	10.07%	52
GTE	WEST VIRGINIA	168.8	153.36	10.07%	51
GTE OF THE SOUTHWEST		215.92	172.62	25.08%	29
GTE	ARKANSAS	215.92	172.62	25.08%	25
GTE	NEW MEXICO	215.92	172.62	25.08%	26
GTE	OKLAHOMA	215.92	172.62	25.08%	28
GTE	TEXAS	215.92	172.62	25.08%	27
GTE	ILLINOIS	81.58	131.8	-38.10%	102
GTE	INDIANA	90.88	134.4	-32.38%	100
GTE	IOWA	293.94	193.7	51.75%	2
GTE	MICHIGAN	129.38	115.2	12.31%	48
GTE	MINNESOTA	249.28	180.74	37.92%	13
GTE	MISSOURI	102.82	112	-8.20%	86
GTE	NEBRASKA & KANSAS	400.38	161.48	147.94%	1
GTE	OHIO	106.66	129.82	-17.84%	93
GTE	PENNSYLVANIA	150.54	129.72	16.05%	46
GTE	WISCONSIN	167.88	164.24	2.22%	80
HAWAIIAN TELEPHONE CO.		170.46	164.72	3.48%	71
LINCOLN TELEPHONE COMPANY		120.06	154.9	-22.49%	96
ROCHESTER TELEPHONE CORPORATION		67.06	86.84	-22.78%	97
SOUTHERN NEW ENGLAND TELEPHONE		155.2	146.76	5.75%	59
UNITED OF FLORIDA		167.31	121	38.27%	12
UNITED OF INDIANA		205.51	159.02	29.24%	20
CAROLINA TEL. & TEL.		119.89	109.02	9.97%	54
UNITED OF OHIO		153.14	119.41	28.25%	21
UNITED OF PENNSYLVANIA		111.81	137.72	-18.81%	95
UNITED INTER-MOUNTAIN		NA	NA	NA	104
UNITED	TENNESSEE	152.4	138.33	10.17%	50
UNITED	VIRGINIA	131.23	128.32	2.27%	79

RTE2
11/19/87

RTE2B ANALYSIS OF SPECIAL ACCESS HICAP RATE CHANGES (10 MILE TRANS)

COMPANY		PROPOSED HICAP 10 MILE TRANS RATE COL A	CURRENT HICAP 10 MILE TRANS RATE COL B	PERCENTAGE CHANGE OF PROPOSED TO CURRENT RATE COL C	RANK
ILLINOIS BELL		1204.99	1222.34	-1.42%	66
INDIANA BELL		1318	1368.72	-3.71%	70
MICHIGAN BELL		1061.05	1061.07	-0.00%	58
OHIO BELL		1255.13	1375.88	-8.78%	80
WISCONSIN BELL		1322	1357.96	-2.65%	69
C & P (D.C.)		880.65	881.25	-0.07%	59
C & P of MARYLAND		880.65	881.25	-0.07%	60
C & P of VIRGINIA		880.65	881.25	-0.07%	61
C & P of WEST VIRGINIA		880.65	881.25	-0.07%	62
DIAMOND STATE TEL.		880.65	755.33	16.59%	20
BELL OF PENNSYLVANIA		880.65	800.39	10.03%	31
NEW JERSEY BELL		880.65	804.94	9.41%	33
SOUTHERN BELL	FLORIDA	1120.57	1650.32	-32.10%	96
SOUTHERN BELL	GEORGIA	983.75	1381.87	-28.81%	94
SOUTHERN BELL	NORTH CAROLINA	997.52	1246.26	-19.96%	93
SOUTHERN BELL	SOUTH CAROLINA	1075.52	1246.26	-13.70%	88
SOUTH CENTRAL BELL	ALABAMA	1055.32	1209.27	-12.73%	84
SOUTH CENTRAL BELL	KENTUCKY	1174.66	1298.58	-9.54%	81
SOUTH CENTRAL BELL	LOUISIANA	1361.06	1280.84	6.26%	36
SOUTH CENTRAL BELL	MISSISSIPPI	1381.28	1674.89	-17.53%	92
SOUTH CENTRAL BELL	TENNESSEE	1114.36	1256.87	-11.34%	83
NEW ENGLAND TELEPHONE		1344.62	1399.49	-3.92%	75
NEW ENGLAND TELEPHONE	MAINE	1344.62	1399.49	-3.92%	76
NEW ENGLAND TELEPHONE	MASSACHUSETTS	1344.62	1399.49	-3.92%	71
NEW ENGLAND TELEPHONE	NEW HAMPSHIRE	1344.62	1399.49	-3.92%	74
NEW ENGLAND TELEPHONE	RHODE ISLAND	1344.62	1399.49	-3.92%	73
NEW ENGLAND TELEPHONE	VERMONT	1344.62	1399.49	-3.92%	72
NEW YORK TELEPHONE		1261.35	1279.04	-1.38%	65
PACIFIC BELL	CALIFORNIA	1244.89	1239.05	0.47%	48
NEVADA BELL	NEVADA	1020.22	1041.66	-2.06%	68
SOUTHWESTERN BELL TEL. CO.		1105.01	NA	NA	102
SOUTHWESTERN BELL TEL. CO.	ARKANSAS	1105.01	1979.66	-44.18%	99
SOUTHWESTERN BELL TEL. CO.	KANSAS	1105.01	1632.29	-32.30%	97
SOUTHWESTERN BELL TEL. CO.	MISSOURI	1105.01	1300.77	-15.05%	89
SOUTHWESTERN BELL TEL. CO.	OKLAHOMA	1105.01	1577.21	-29.94%	95
SOUTHWESTERN BELL TEL. CO.	TEXAS	1105.01	1190.83	-7.21%	79
MOUNTAIN BELL		1312.73	1310.02	0.21%	54
MOUNTAIN BELL	ARIZONA	1312.73	1310.02	0.21%	50
MOUNTAIN BELL	COLORADO	1312.73	1310.02	0.21%	51
MOUNTAIN BELL	IDAHO	1312.73	1310.02	0.21%	52
MOUNTAIN BELL	MONTANA	1312.73	NA	NA	103
MOUNTAIN BELL	NEW MEXICO	1312.73	1310.02	0.21%	53
MOUNTAIN BELL	UTAH	1312.73	1310.02	0.21%	49
MOUNTAIN BELL	WYOMING	1312.73	NA	NA	100
NORTHWESTERN BELL		1170.59	943.87	24.02%	13
NORTHWESTERN BELL	IOWA	1170.59	943.87	24.02%	11
NORTHWESTERN BELL	MINNESOTA	1170.59	943.87	24.02%	9
NORTHWESTERN BELL	NEBRASKA	1170.59	943.87	24.02%	12
NORTHWESTERN BELL	NORTH DAKOTA	1170.59	NA	NA	104
NORTHWESTERN BELL	SOUTH DAKOTA	1170.59	943.87	24.02%	10
PACIFIC NORTHWEST BELL		686.23	790.37	-13.18%	86
PACIFIC NORTHWEST BELL	IDAHO	NA	NA	NA	105
PACIFIC NORTHWEST BELL	OREGON	686.23	790.37	-13.18%	85
PACIFIC NORTHWEST BELL	WASHINGTON	686.23	790.37	-13.18%	87
CENTRAL OF FLORIDA		488.7	428.71	13.99%	25
CENTRAL OF NEVADA		438.28	465.52	-5.85%	78
CINCINNATI BELL TELEPHONE		1219.14	1008.74	20.86%	16
CONTEL OF CALIFORNIA		1207.21	1024.61	17.82%	18
CONTEL OF NEW YORK		964.24	1621.9	-40.55%	98
CONTEL OF TEXAS		1094.73	759.27	44.18%	2
CONTEL OF VIRGINIA		1018.43	1126.08	-9.56%	82
GTE OF CALIFORNIA		1132.79	1058.36	7.03%	35

RTE2
11/19/87

RTE2B ANALYSIS OF SPECIAL ACCESS MICAP RATE CHANGES (10 MILE TRANS)

COMPANY		PROPOSED MICAP 10 MILE TRANS RATE COL A	CURRENT MICAP 10 MILE TRANS RATE COL B	PERCENTAGE CHANGE OF PROPOSED TO CURRENT RATE COL C	RANK
GTE OF FLORIDA		1120.23	857.44	30.65%	4
GTE-ID & MT		780.7	627.16	24.48%	5
GTE	IDAHO	780.7	627.16	24.48%	7
GTE	MONTANA	780.7	627.16	24.48%	6
GTE-OR, WA & WESTN CA		695.73	661.47	5.18%	37
GTE	OREGON	695.73	661.47	5.18%	39
GTE	WASHINGTON	695.73	661.47	5.18%	38
GTE	ALABAMA	820.19	730.38	12.30%	27
GTE	GEORGIA	743.81	598.03	24.38%	8
GTE	KENTUCKY	771.6	657.11	17.42%	19
GTE	NORTH CAROLINA	734.87	700.72	4.87%	40
GTE	SOUTH CAROLINA	867.31	719.01	20.63%	17
GTE	TENNESSEE	934.3	764.46	22.22%	14
GTE VA & WV		847.52	735.77	15.19%	21
GTE	VIRGINIA	847.52	735.77	15.19%	23
GTE	WEST VIRGINIA	847.52	735.77	15.19%	22
GTE OF THE SOUTHWEST		709.24	697.09	1.74%	43
GTE	ARKANSAS	709.24	697.09	1.74%	47
GTE	NEW MEXICO	709.24	697.09	1.74%	46
GTE	OKLAHOMA	709.24	697.09	1.74%	44
GTE	TEXAS	709.24	697.09	1.74%	45
GTE	ILLINOIS	904.65	923.06	-1.99%	67
GTE	INDIANA	974.42	950.51	2.52%	41
GTE	IOWA	688.38	617.31	11.51%	29
GTE	MICHIGAN	898.99	905.67	-0.74%	63
GTE	MINNESOTA	725.87	598.66	21.25%	15
GTE	MISSOURI	741.1	662.96	11.79%	28
GTE	NEBRASKA & KANSAS	671.88	614.17	9.40%	34
GTE	OHIO	905.1	911.92	-0.75%	64
GTE	PENNSYLVANIA	1005.03	985.41	1.99%	42
GTE	WISCONSIN	780.09	821.83	-5.08%	77
HAWAIIAN TELEPHONE CO.		423.75	0	0.00%	57
LINCOLN TELEPHONE COMPANY		1040.9	1259.04	-17.33%	91
ROCHESTER TELEPHONE CORPORATION		809.72	733.91	10.33%	30
SOUTHERN NEW ENGLAND TELEPHONE		1149.51	1048.22	9.66%	32
UNITED OF FLORIDA		984.8	866.62	13.64%	26
UNITED OF INDIANA		1395.67	0	0.00%	55
CAROLINA TEL. & TEL.		832.73	726.72	14.59%	24
UNITED OF OHIO		1030.14	723.15	42.45%	3
UNITED OF PENNSYLVANIA		961.06	1149.06	-16.36%	90
UNITED INTER-MOUNTAIN		NA	NA	NA	101
UNITED	TENNESSEE	645.68	341.22	89.23%	1
UNITED	VIRGINIA	733	0	0.00%	56

INTERSTATE REVENUE REQUIREMENT ADJUSTMENTS-DEPRECIATION
($000)

LEC	RECOMMENDED DISALLOWANCE DEPRECIATION EXPENSE	AVERAGE DEPRECIATION RESERVE	* DEFERRED TAX	AVERAGE DEFERRED TAX RESERVE	RATE BASE	NET RETURN	FIT	INTERSTATE REVENUE REQUIREMENT
	A	B=A/2	C=-.34*A	D=C/2	E=-(B+D)	F=.12*E	G=.36*F	H=A+F+G
ell of Pennsylvania	-19317	-9659	6568	3284	6375	765	275	-18
INCINNATI BELL	-2430	-1215	826	413	802	96	35	-2
P - Virginia	-5136	-2568	1746	873	1695	203	73	-48
amond State	-1557	-779	529	265	514	62	22	-14
E NW - Indiana	-2829	-1415	962	481	934	112	40	-26
E NW - Michigan	-3657	-1829	1243	622	1207	145	52	-34
E NW - Idaho	-2329	-1165	792	396	769	92	33	-22
E NW - Oregon	-2320	-1160	789	395	765	92	33	-21
E NW - Washington	-2236	-1118	760	380	738	89	32	-21
E - rida	-22410	-11205	7619	3810	7395	887	319	-21
unta - Arizona	-8753	-4377	2976	1488	2889	347	125	-82
untain - Colorado	-4738	-2369	1611	806	1563	188	68	-44
untain - Idaho	-3055	-1528	1039	520	1008	121	44	-28
untain - Montana	-5627	-2814	1913	957	1857	223	80	-53
untain - New Mexico	-7424	-3712	2524	1262	2450	294	106	-70
untain - Wyoming	-3567	-1784	1213	607	1177	141	51	-33
vada Bell	-1785	-893	607	304	589	71	26	-16
w England - Vermont	-2136	-1068	726	363	705	85	31	-20
w Jersey Bell	-13412	-6706	4560	2280	4426	531	191	-126
rthwest - Minnesota	-3822	-1911	1299	650	1261	151	54	-36
rthwest - Nebraska	-2369	-1185	805	403	782	94	34	-22
cific Bell - California	-68164	-34082	23176	11588	22494	2699	972	-64
uthern Bell - Florida	-12953	-6477	4404	2202	4275	513	185	-122
TALS	($202,026)	($101,019)	$68,687	$34,349	$66,670	$8,001	$2,881	($191,1

INTERSTATE REVENUE REQUIREMENT ADJUSTMENTS-DEPRECIATION
($000)

LEC	RECOMMENDED DISALLOWANCE DEPRECIATION EXPENSE	AVERAGE DEPRECIATION RESERVE	* DEFERRED TAX	AVERAGE DEFERRED TAX RESERVE	RATE BASE	NET RETURN	FIT	INTERSTATE REVENUE REQUIRE
	A	B=A/2	C=-.34*A	D=C/2	E=-(B+D)	F=.12*E	G=.36*F	H=A+F+
ll of Pennsylvania	-19317	-9659	6568	3284	6375	765	275	-1827
CINNATI BELL	-2430	-1215	826	413	802	96	35	-2299
- Virginia	-5136	-2568	1746	873	1695	203	73	-4860
cond State	-1557	-779	529	265	514	62	22	-1473
W - Indiana	-2829	-1415	962	481	934	112	40	-2677
W - Michigan	-3657	-1829	1243	622	1207	145	52	-3460
W - Idaho	-2329	-1165	792	396	769	92	33	-2204
W - Oregon	-2320	-1160	789	395	765	92	33	-2195
W - Washington	-2236	-1118	760	380	738	89	32	-2115
- rida	-22410	-11205	7619	3810	7395	887	319	-21204
nta - Arizona	-8753	-4377	2976	1488	2889	347	125	-8281
ntain - Colorado	-4738	-2369	1611	806	1563	188	68	-4482
ntain - Idaho	-3055	-1528	1039	520	1008	121	44	-2890
ntain - Montana	-5627	-2814	1913	957	1857	223	80	-5324
ntain - New Mexico	-7424	-3712	2524	1262	2450	294	106	-7024
ntain - Wyoming	-3567	-1784	1213	607	1177	141	51	-3375
da Bell	-1785	-893	607	304	589	71	26	-1688
England - Vermont	-2136	-1068	726	363	705	85	31	-2020
Jersey Bell	-13412	-6706	4560	2280	4426	531	191	-12690
thwest - Minnesota	-3822	-1911	1299	650	1261	151	54	-3617
thwest - Nebraska	-2369	-1185	805	403	782	94	34	-2241
ific Bell - California	-68164	-34082	23176	11588	22494	2699	972	-64493
thern Bell - Florida	-12953	-6477	4404	2202	4275	513	185	-12255
TALS	($202,026)	($101,019)	$68,687	$34,349	$66,670	$8,001	$2,881	($191,144)

DEPRECIATION EXPENSE DISALLOWANCE BY ACCESS CATEGORY
(OPERATING COMPANIES AND JURISDICTIONS)
$(000)

COMPANY/JURSIDICTION	INTERSTATE REVENUE REQUIREMENT	DEPRECIATION EXPENSE DISALLOWANCE		
		TOTAL COMMON LINE	TOTAL SWT TRAFFIC SENSITIVE	TOTAL SPECIAL ACCESS
	A	B	C	D
Bell of Pennsylvania	-18277	-7859	-5757	-4588
C&P - Virginia	-4860	-2425	-1390	-1045
CINCINNATI BELL	-2299	-917	-713	-536
Diamond State	-1473	-658	-513	-299
GTE - Florida	-21204	-11429	-7421	-1718
GTE OF THE MIDWEST	-6137	-3072	-2337	-575
GTE MW - Indiana	-2677	-1138	-1119	-340
GTE MW - Michigan	-3460	-1934	-1218	-235
GTE OF THE NORTHWEST	-6514	-3164	-2549	-548
GTE NW - Idaho	-2204	-972	-1018	-170
GTE NW - Oregon	-2195	-1124	-738	-213
GTE NW - Washington	-2115	-1068	-793	-165
MOUNTAIN STATES	-31376	-15966	-11301	-4104
Mountain - Arizona	-8281	-4828	-2368	-1085
Mountain - Colorado	-4482	-2089	-1694	-699
Mountain - Idaho	-2890	-1454	-1084	-353
Mountain - Montana	-5324	-2556	-2215	-554
Mountain - New Mexico	-7024	-3048	-2894	-1075
Mountain - Wyoming	-3375	-1991	-1046	-338
Nevada Bell	-1688	-918	-557	-213
New Jersey Bell	-12690	-5774	-4632	-2233
New England - Vermont	-2020	-953	-798	-271
NORTHWESTERN BELL	-5858	-2381	-2153	-1325
Northwest - Minnesota	-3617	-1588	-1201	-832
Northwest - Nebraska	-2241	-793	-952	-493
Pacific Bell - California	-64493	-33085	-22444	-8965
Southern Bell - Florida	-12255	-7574	-3174	-1507
TOTALS	($191,144)	($96,176)	($65,739)	($27,926)

Appendix G

A1 12/29/87

PRE TARIFF LEVEL

($ MILLIONS)

REVENUE REQUIREMENT DISALLOWANCES

PAGE 1 of 12

AVERAGE SCHEDULE

		TOTAL	CL	TS-SW	SP
		1	2	3	4
HOLDING/OPERATING COMPANY	COSA				
AVERAGE SCHEDULE COMPANIES	ASCO	4.352	4.352	0.000	0.000
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR				
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CDOC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4. NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV				
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC				
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC				
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC				
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

PRE TARIFF LEVEL

($ MILLIONS)

AVERAGE SCHEDULE

		TOTAL	CL	TS-SW	SP
-		1	2	3	4
HOLDING/OPERATING COMPANY	COSA				
GENERAL TELEPHONE OPERATING COs	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL				
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID				
	GTMT				
3.2 GTE OR, WA & WSTN CA	GTNE				
	GTOR				
	GTWA				
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTVV				
5. GTE OF THE SOUTHWEST	GTSW				
6. GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN				
	GTIA				
	GTMI				
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOTAL	4.352			
119.809	CL		4.352		
91.711	TS-SW			0.000	
38.486	SP				0.000

A: 12/29/87

PRE TARIFF LEVEL

($ MILLIONS)

REVENUE REQUIREMENT DISALLOWANCES

PAGE 3 of 12

UNCOLLECTIBLES

HOLDING/OPERATING COMPANY	COSA	TOTAL 5	CL 6	TS-SW 7	SP 8
AVERAGE SCHEDULE COMPANIES	ASCO				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR				
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CODC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE	0.357	0.000	0.216	0.141
3. BELL OF PENNSYLVANIA	PAPA	0.820	0.000	0.503	0.317
4. NEW JERSEY BELL	NJNJ	0.459	0.000	0.459	0.000
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV				
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC				
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC				
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC				
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

PRE TARIFF LEVEL

($ MILLIONS)

UNCOLLECTIBLES

		TOTAL	CL	TS-SW	SP
		5	6	7	8
HOLDING/OPERATING COMPANY	COSA				
GENERAL TELEPHONE OPERATING CO=	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL	0.368	0.000	0.299	0.069
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID				
	GTMT				
3.2 GTE OP, WA & WSTN CA	GTNB				
	GTOR				
	GTWA	1.215	0.000	0.671	0.544
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTVV				
5. GTE OF THE SOUTHWEST	GTSW				
6. GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN				
	GTIA				
	GTMI				
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOT	3.219			
119.809	CL		0.000		
91.711	SW			2.147	
38.486	SP				1.072

PRE TARIFF LEVEL

($ MILLIONS)

CASH WORKING CAPITAL

		TOTAL	CL	TS-SW	SP
		9	10	11	12
HOLDING/OPERATING COMPANY	COSA				
AVERAGE SCHEDULE COMPANIES	ASCO				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR				
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CDDC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4. NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV	0.192	0.000	0.139	0.053
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC				
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC				
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC				
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC	1.182	0.000	0.957	0.225
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

PRE TARIFF LEVEL

($ MILLIONS)

CASH WORKING CAPITAL

		TOTAL	CL	TS-SW	SP
		9	10	11	12
HOLDING/OPERATING COMPANY	COSA				
GENERAL TELEPHONE OPERATING COs	GTTC	6.699	0.000	5.386	1.313
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL				
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID				
	GTMT				
3.2 GTE OR, WA & WSTN CA	GTNB				
	GTOR				
	GTWA				
	GWCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTVV				
5. GTE OF THE SOUTHWEST	GTSW				
6. GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN				
	GTIA				
	GTMI				
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOT	8.073			
119.809	CL		0.000		
91.711	SW			6.482	
38.486	SP				1.591

PRE TARIFF LEVEL

($ MILLIONS)

EXPENSE LESS DEPRECIATION

		TOTAL	CL	TS-SW	SP
		13	14	15	16
HOLDING/OPERATING COMPANY	COSA				
AVERAGE SCHEDULE COMPANIES	ASCO				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN	2.397	0.981	1.002	0.414
BELL ATLANTIC	BATR				
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CODC	6.124	2.071	1.996	2.057
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4. NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV				
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC				
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC				
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC	7.799	3.596	3.121	1.082
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

A1 12/29/87

REVENUE REQUIREMENT DISALLOWANCES

PRE TARIFF LEVEL

($ MILLIONS)

EXPENSE LESS DEPRECIATION

HOLDING/OPERATING COMPANY	COSA	TOTAL	CL	TS-SW	SP
		13	14	15	16
GENERAL TELEPHONE OPERATING COs	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL				
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID				
	GTMT				
3.2 GTE OR, WA & WSTN CA	GTNB				
	GTOR				
	GTWA				
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTVV				
5. GTE OF THE SOUTHWEST	GTSW				
6. GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN				
	GTIA				
	GTMI				
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES	--				
250.005	TOT	16.320			
119.805	CL		8.648		
91.711	SW			6.119	
38.486	SP				3.553
	--				

PRE TARIFF LEVEL

($ MILLIONS)

		DEPRECIATION			
		TOTAL	CL	TS-SW	SP
		17	18	19	20
HOLDING/OPERATING COMPANY	COSA				
AVERAGE SCHEDULE COMPANIES	ASCO				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR				
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CDOC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA	4.860	2.425	1.390	1.045
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE	1.470	0.658	0.513	0.299
3. BELL OF PENNSYLVANIA	PAPA	18.204	7.859	5.757	4.588
4. NEW JERSEY BELL	NJNJ	12.639	5.774	4.632	2.233
SOUTHERN BELL	SBTC				
	SBFL	12.255	7.574	3.174	1.507
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NEPI				
	NEVT	2.022	0.953	0.798	0.271
PACIFIC BELL	PTCA	64.494	33.085	22.444	8.965
NEVADA BELL	PTNV	1.688	0.918	0.557	0.213
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC				
	MSAZ	8.281	4.828	2.368	1.085
	MSCO	4.482	2.089	1.694	0.699
	MSID	2.891	1.454	1.084	0.353
	MSMT	5.325	2.556	2.215	0.554
	MSNM	7.017	3.048	2.894	1.075
	MSUT				
	MSWY	3.375	1.991	1.046	0.338
2. NORTHWESTERN BELL	NWTC				
	NWIA				
	NWMN	3.621	1.588	1.201	0.832
	NWNE	2.238	0.793	0.952	0.493
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC				
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC	2.166	0.917	0.713	0.536
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

PRE TARIFF LEVEL

($ MILLIONS)

DEPRECIATION

		TOTAL	CL	TS-SW	SP
		17	18	19	20
HOLDING/OPERATING COMPANY	COSA				
GENERAL TELEPHONE OPERATING COs	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL	20.568	11.429	7.421	1.718
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID	2.160	0.972	1.018	0.170
	GTMT				
3.2 GTE OR, WA & WSTN CA	GTNB				
	GTOR	2.075	1.124	0.738	0.213
	GTWA	2.026	1.068	0.793	0.165
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTVV				
5. GTE OF THE SOUTHWEST	GTSW				
6 GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN	2.597	1.138	1.119	0.340
	GTIA				
	GTMI	3.387	1.934	1.218	0.235
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOT	189.841			
119.809	CL		96.175		
91.711	SW			65.739	
38.486	SP				27.927

A1 12/29/87

PRE TARIFF LEVEL

($ MILLIONS)

REVENUE REQUIREMENT DISALLOWANCES

FURNITURE & EQUIPMENT

		TOTAL	CL	TS-SW	SP
		21	22	23	24
HOLDING/OPERATING COMPANY	COSA				
AVERAGE SCHEDULE COMPANIES	ASCO				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR				
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CODC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4. NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV				
U.S. WEST	USTR	28.200	12.634	11.224	4.343
1. MOUNTAIN BELL	MSTC				
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL.	NWTC				
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC				
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

PRE TARIFF LEVEL

($ MILLIONS)

FURNITURE & EQUIPMENT

HOLDING/OPERATING COMPANY	COSA	TOTAL (21)	CL (22)	TS-SW (23)	SP (24)
GENERAL TELEPHONE OPERATING COs	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL				
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID				
	GTMT				
3.2 GTE OR, WA & WSTN CA	GTN2				
	GTOR				
	GTWA				
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTVV				
5. GTE OF THE SOUTHWEST	GTSW				
6. GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN				
	GTIA				
	GTMI				
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOT	28.200			
119.809	CL		12.634		
91.711	SW			11.224	
38.486	SP				4.343

Appendix G

AD 12/29/87

REVENUE REQUIREMENT DISALLOWANCES

TARIFF LEVEL

($ MILLIONS)

AVERAGE SCHEDULE

HOLDING/OPERATING COMPANY	COSA	TOTAL 1	CL 2	TS-SW 3	SP 4
AVERAGE SCHEDULE COMPANIES	ASCO	4.352	4.352	0.000	0.000
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR				
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CODC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4. NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV				
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC				
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC				
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC				
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

A3 12/29/87

REVENUE REQUIREMENT PAGE
DISALLOWANCES 2 of 14

TARIFF LEVEL

AVERAGE SCHEDULE

($ MILLIONS)

		TOTAL	CL	TS-SW	SP
		1	2	3	4
HOLDING/OPERATING COMPANY	COSA				
GENERAL TELEPHONE OPERATING COs	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL				
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID				
	GTMT				
3.2 GTE OR, WA & WSTN CA	GTNB				
	GTOR				
	GTWA				
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTVV				
5. GTE OF THE SOUTHWEST	GTSW				
6. GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN				
	GTIA				
	GTMI				
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOTAL	4.352			
119.809	CL		4.352		
91.711	TS-SW			0.000	
38.486	SP				0.000

TARIFF LEVEL

($ MILLIONS)

HOLDING/OPERATING COMPANY	COSA	TOTAL 5	CL 6	TS-SW 7	SP 8
AVERAGE SCHEDULE COMPANIES	ASCO				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR	1.636	0.000	1.177	0.459
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CDOC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4 NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV				
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC				
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC				
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC				
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

TARIFF LEVEL

UNCOLLECTIBLES

($ MILLIONS)

		TOTAL	CL	TS-SW	SP
		5	6	7	8
HOLDING/OPERATING COMPANY	COSA				
GENERAL TELEPHONE OPERATING COs	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL	0.368	0.000	0.299	0.069
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID				
	GTMT				
3.2 GTE OR, WA & WSTN CA	GTNB	1.215	0.000	0.671	0.544
	GTOR				
	GTWA				
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTVV				
5. GTE OF THE SOUTHWEST	GTSW				
6. GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN				
	GTIA				
	GTMI				
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOT	3.219			
119.809	CL		0.000		
91.711	SW			2.147	
38.486	SP				1.072

TARIFF LEVEL

($ MILLIONS)

CASH WORKING CAPITAL

HOLDING/OPERATING COMPANY	COSA	TOTAL 9	CL 10	TS-SW 11	SP 12
AVERAGE SCHEDULE COMPANIES	ASCO				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR				
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CDOC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4. NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV	0.192	0.000	0.139	0.053
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC				
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC				
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC				
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA	0.338		0.274	0.064
2. CONTEL OF NEW YORK	CONY	0.218		0.180	0.038
3. CONTEL OF TEXAS	COTX	0.122		0.107	0.015
4. CONTEL OF VIRGINIA	COVA	0.504		0.397	0.108

TARIFF LEVEL

($ MILLIONS)

CASH WORKING CAPITAL

HOLDING/OPERATING COMPANY	COSA	TOTAL 9	CL 10	TS-SW 11	SP 12
GENERAL TELEPHONE OPERATING CO:	GTTC				
1. GTE OF CALIFORNIA	GTCA	1.521		1.195	0.326
2. GTE OF FLORIDA	GTFL	1.042		0.846	0.195
3. GTE OF THE NORTHWEST	GTNW	0.000		0.000	0.000
3.1 GTE ID & MT	GTNA	0.111		0.095	0.016
	GTID	0.000		0.000	0.000
	GTMT	0.000		0.000	0.000
3.2 GTE OR, WA & WSTN CA	GTNP	0.351		0.285	0.067
	GTOR	0.000		0.000	0.000
	GTWA	0.000		0.000	0.000
	GNCA	0.000		0.000	0.000
4. GTE OF THE SOUTH	GTSO	0.000		0.000	0.000
	GTAL	0.110		0.094	0.016
	GTGA	0.110		0.086	0.024
	GTKY	0.247		0.197	0.050
	GTNC	0.096		0.069	0.027
	GTSC	0.116		0.092	0.024
	GTTN	0.032		0.026	0.005
4.1 GTE VA & WV	GTVV	0.083		0.069	0.014
5. GTE OF THE SOUTHWEST	GTSW	0.756		0.590	0.166
6. GTE MIDWEST OPERATIONS	GTMW	0.000		0.000	0.000
	GTIL	0.288		0.254	0.034
	GTIN	0.462		0.354	0.108
	GTIA	0.041		0.035	0.006
	GTMI	0.209		0.175	0.034
	GTMN	0.001		0.001	.000
	GTMO	0.047		0.039	0.008
	GTNE	0.015		0.012	0.003
	GTOH	0.292		0.237	0.055
	GTPA	0.164		0.127	0.038
	GTWI	0.177		0.146	0.031
7. HAWAIIAN TELEPHONE CO.	GTHI	0.432		0.365	0.067
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOT	8.073			
119.809	CL		0.000		
91.711	SW			6.482	
38.486	SP				1.591

TARIFF LEVEL

($ MILLIONS)

EXPENSE LESS DEPRECIATION

		TOTAL	CL	TS-SW	SP
		13	14	15	16
HOLDING/OPERATING COMPANY	COSA				
AVERAGE SCHEDULE COMPANIES	ASCO				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN	2.397	0.981	1.002	0.414
BELL ATLANTIC	BATR	6.124	2.071	1.996	2.057
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CDOC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4. NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV				
U.S. WEST	USTP				
1. MOUNTAIN BELL	MSTC				
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC				
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC	7.799	3.596	3.121	1.082
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

TARIFF LEVEL

($ MILLIONS)

EXPENSE LESS DEPRECIATION

HOLDING/OPERATING COMPANY	COSA	TOTAL (13)	CL (14)	TS-SW (15)	SP (16)
GENERAL TELEPHONE OPERATING COs	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL				
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID				
	GTMT				
3.2 GTE OF, WA & WSTN CA	GTNP				
	GTOR				
	GTWA				
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTWV				
5. GTE OF THE SOUTHWEST	GTSW				
F GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN				
	GTIA				
	GTMI				
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOT	16.320			
119.809	CL		6.648		
91.711	SW			6.119	
38.486	SP				3.553

TARIFF LEVEL

($ MILLIONS)

DEPRECIATION

HOLDING/OPERATING COMPANY	COSA	TOTAL 17	CL 18	TS-SW 19	SP 20
AVERAGE SCHEDULE COMPANIES	ASCO				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR	37.173	16.716	12.292	8.165
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CDDC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4. NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL	12.255	7.574	3.174	1.507
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC	2.022	0.953	0.798	0.271
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA	64.494	33.085	22.444	8.965
NEVADA BELL	PTNV	1.688	0.918	0.557	0.213
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC	31.371	15.966	11.301	4.104
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC	5.859	2.381	2.153	1.325
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC				
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC	2.166	0.917	0.713	0.536
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

TARIFF LEVEL

DEPRECIATION

($ MILLIONS)

		TOTAL	CL	TS-SW	SP
		17	18	19	20
HOLDING/OPERATING COMPANY	COSA				
GENERAL TELEPHONE OPERATING COs	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL	20.568	11.429	7.421	1.718
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA	2.160	0.972	1.018	0.170
	GTID				
	GTMT				
3.2 GTE OR, WA & WSTN CA	GTNB	4.101	2.192	1.531	0.378
	GTOR				
	GTWA				
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
4.1 GTE VA & WV	GTVV				
5 GTE OF THE SOUTHWEST	GTSW				
6. GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN	2.597	1.138	1.119	0.340
	GTIA				
	GTMI	3.387	1.934	1.218	0.235
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES					
250.005	TOT	189.841			
119.809	CL		96.175		
91.711	SW			65.739	
38.486	SP				27.927

A3 12/29/87

REVENUE REQUIREMENT
DISALLOWANCES

TARIFF LEVEL

($ MILLIONS)

FURNITURE & EQUIPMENT

HOLDING/OPERATING COMPANY	COSA	TOTAL 21	CL 22	TS-SW 23	SP 24
AVERAGE SCHEDULE COMPANIES	ASCD				
ILLINOIS BELL	LBIL				
INDIANA BELL	NBIN				
BELL ATLANTIC	BATR				
1. CHESAPEAKE & POTOMAC	CPTC				
1.1 C & P (D.C.)	CDDC				
1.2 C & P of MARYLAND	CMMD				
1.3 C & P of VIRGINIA	CVVA				
1.4 C & P of WEST VIRGINIA	CWWV				
2. DIAMOND STATE TEL.	DSDE				
3. BELL OF PENNSYLVANIA	PAPA				
4. NEW JERSEY BELL	NJNJ				
SOUTHERN BELL	SBTC				
	SBFL				
	SBGA				
	SBNC				
	SBSC				
SOUTH CENTRAL BELL	SCTC				
	SCAL				
	SCKY				
	SCLA				
	SCMS				
	SCTN				
NEW ENGLAND TELEPHONE	NETC				
	NEME				
	NEMA				
	NENH				
	NERI				
	NEVT				
PACIFIC BELL	PTCA				
NEVADA BELL	PTNV				
U.S. WEST	USTR				
1. MOUNTAIN BELL	MSTC	15.412	7.215	6.099	2.098
	MSAZ				
	MSCO				
	MSID				
	MSMT				
	MSNM				
	MSUT				
	MSWY				
2. NORTHWESTERN BELL	NWTC	7.466	2.987	2.953	1.526
	NWIA				
	NWMN				
	NWNE				
	NWND				
	NWSD				
3. PACIFIC NORTHWEST BELL	PNTC	5.323	2.432	2.172	0.719
CENTRAL TELEPHONE CO.	CETC				
1. CENTRAL OF FLORIDA	CEFL				
2. CENTRAL OF NEVADA	CENV				
CINCINNATI BELL TELEPHONE	CBTC				
CONTINENTAL TELEPHONE CO.	COTC				
1. CONTEL OF CALIFORNIA	COCA				
2. CONTEL OF NEW YORK	CONY				
3. CONTEL OF TEXAS	COTX				
4. CONTEL OF VIRGINIA	COVA				

TARIFF LEVEL

($ MILLIONS)

FURNITURE & EQUIPMENT

HOLDING/OPERATING COMPANY	COSA	TOTAL 21	CL 22	TS-SW 23	SP 24
GENERAL TELEPHONE OPERATING COs	GTTC				
1. GTE OF CALIFORNIA	GTCA				
2. GTE OF FLORIDA	GTFL				
3. GTE OF THE NORTHWEST	GTNW				
3.1 GTE ID & MT	GTNA				
	GTID				
	GTMT				
3.2 GTE OR, WA & WSTN CA	GTNE				
	GTOR				
	GTWA				
	GNCA				
4. GTE OF THE SOUTH	GTSO				
	GTAL				
	GTGA				
	GTKY				
	GTNC				
	GTSC				
	GTTN				
.1 GTE VA & WV	GTVV				
5. GTE OF THE SOUTHWEST	GTSW				
6. GTE MIDWEST OPERATIONS	GTMW				
	GTIL				
	GTIN				
	GTIA				
	GTMI				
	GTMN				
	GTMO				
	GTNE				
	GTOH				
	GTPA				
	GTWI				
7. HAWAIIAN TELEPHONE CO.	GTHI				
ROCHESTER TELEPHONE CORPORATION	RTNY				
G R A N D TOTALS ALL PAGES	--				
250.005	TOT	28.200			
119.809	CL		12.634		
91.711	SW			11.224	
38.486	SP				4.343

TARIFF LEVEL

($ MILLIONS)

GRAND TOTALS

HOLDING/OPERATING COMPANY	COSA	TOTAL 25	CL 26	TS-SW 27	SP 28
AVERAGE SCHEDULE COMPANIES	ASCO	4.352	4.352	0.000	0.000
ILLINOIS BELL	LBIL	0.000	0.000	0.000	0.000
INDIANA BELL	NBIN	2.397	0.981	1.002	0.414
BELL ATLANTIC	BATR	44.933	18.787	15.465	10.681
1. CHESAPEAKE & POTOMAC	CPTC	0.000	0.000	0.000	0.000
1.1 C & P (D.C.)	CDOC	0.000	0.000	0.000	0.000
1.2 C & P of MARYLAND	CMMD	0.000	0.000	0.000	0.000
1.3 C & P of VIRGINIA	CVVA	0.000	0.000	0.000	0.000
1.4 C & P of WEST VIRGINIA	CWWV	0.000	0.000	0.000	0.000
2. DIAMOND STATE TEL.	DSDE	0.000	0.000	0.000	0.000
3. BELL OF PENNSYLVANIA	PAPA	0.000	0.000	0.000	0.000
4. NEW JERSE BELL	NJNJ	0.000	0.000	0.000	0.000
SOUTHERN BELL	SBTC	0.000	0.000	0.000	0.000
	SBFL	12.255	7.574	3.174	1.507
	SBGA	0.000	0.000	0.000	0.000
	SBNC	0.000	0.000	0.000	0.000
	SBSC	0.000	0.000	0.000	0.000
SOUTH CENTRAL BELL	SCTC	0.000	0.000	0.000	0.000
	SCAL	0.000	0.000	0.000	0.000
	SCKY	0.000	0.000	0.000	0.000
	SCLA	0.000	0.000	0.000	0.000
	SCMS	0.000	0.000	0.000	0.000
	SCTN	0.000	0.000	0.000	0.000
NEW ENGLAND TELEPHONE	NETC	2.022	0.953	0.798	0.271
	NEME	0.000	0.000	0.000	0.000
	NEMA	0.000	0.000	0.000	0.000
	NENH	0.000	0.000	0.000	0.000
	NERI	0.000	0.000	0.000	0.000
	NEVT	0.000	0.000	0.000	0.000
PACIFIC BELL	PTCA	64.494	33.085	22.444	8.965
NEVADA BELL	PTNV	1.880	0.918	0.696	0.266
U.S. WEST	USTR	0.000	0.000	0.000	0.000
1. MOUNTAIN BELL	MSTC	46.783	23.181	17.400	6.202
	MSAZ	0.000	0.000	0.000	0.000
	MSCO	0.000	0.000	0.000	0.000
	MSID	0.000	0.000	0.000	0.000
	MSMT	0.000	0.000	0.000	0.000
	MSNM	0.000	0.000	0.000	0.000
	MSUT	0.000	0.000	0.000	0.000
	MSWY	0.000	0.000	0.000	0.000
2. NORTHWESTERN BELL	NWTC	13.325	5.368	5.106	2.851
	NWIA	0.000	0.000	0.000	0.000
	NWMN	0.000	0.000	0.000	0.000
	NWNE	0.000	0.000	0.000	0.000
	NWND	0.000	0.000	0.000	0.000
	NWSD	0.000	0.000	0.000	0.000
3. PACIFIC NORTHWEST BELL	PNTC	13.122	6.028	5.293	1.801
CENTRAL TELEPHONE CO.	CETC	0.000	0.000	0.000	0.000
1. CENTRAL OF FLORIDA	CEFL	0.000	0.000	0.000	0.000
2. CENTRAL OF NEVADA	CENV	0.000	0.000	0.000	0.000
CINCINNATI BELL TELEPHONE	CBTC	2.166	0.917	0.713	0.536
CONTINENTAL TELEPHONE CO.	COTC	0.000	0.000	0.000	0.000
1. CONTEL OF CALIFORNIA	COCA	0.338	0.000	0.274	0.064
2. CONTEL OF NEW YORK	CONY	0.218	0.000	0.180	0.038
3. CONTEL OF TEXAS	COTX	0.122	0.000	0.107	0.015
4. CONTEL OF VIRGINIA	COVA	0.504	0.000	0.397	0.108

R3 12/29/87

REVENUE REQUIREMENT DISALLOWANCES

TARIFF LEVEL

($ MILLIONS)

GRAND TOTALS

HOLDING/OPERATING COMPANY	COSA	TOTAL 25	CL 26	TS-SW 27	SP 28
GENERAL TELEPHONE OPERATING CO=	GTTC	0.000	0.000	0.000	0.000
1. GTE OF CALIFORNIA	GTCA	1.521	0.000	1.195	0.326
2. GTE OF FLORIDA	GTFL	21.978	11.429	8.566	1.983
3. GTE OF THE NORTHWEST	GTNW	0.000	0.000	0.000	0.000
3.1 GTE ID & MT	GTNA	2.271	0.972	1.113	0.186
	GTID	0.000	0.000	0.000	0.000
	GTMT	0.000	0.000	0.000	0.000
.2 GTE OR, WA & WSTN CA	GTNB	5.667	2.192	2.486	0.989
	GTOR	0.000	0.000	0.000	0.000
	GTWA	0.000	0.000	0.000	0.000
	GNCA	0.000	0.000	0.000	0.000
4. GTE OF THE SOUTH	GTSO	0.000	0.000	0.000	0.000
	GTFL	0.110	0.000	0.094	0.016
	GTGA	0.110	0.000	0.086	0.024
	GTKY	0.247	0.000	0.197	0.050
	GTNC	0.096	0.000	0.069	0.027
	GTSC	0.116	0.000	0.092	0.024
	GTTN	0.032	0.000	0.026	0.005
4.1 GTE VA & WV	GTVV	0.083	0.000	0.069	0.014
5. GTE OF THE SOUTHWEST	GTSW	0.756	0.000	0.590	0.166
6. GTE MIDWEST OPERATIONS	GTMW	0.000	0.000	0.000	0.000
	GTIL	0.288	0.000	0.254	0.034
	GTIN	3.059	1.138	1.473	0.448
	GTIA	0.041	0.000	0.035	0.006
	GTMI	3.595	1.934	1.393	0.269
	GTMN	0.001	0.000	0.001	.000
	GTMO	0.047	0.000	0.038	0.008
	GTNE	0.015	0.000	0.012	0.003
	GTOH	0.292	0.000	0.237	0.055
	GTPA	0.164	0.000	0.127	0.038
	GTWI	0.177	0.000	0.146	0.031
7. HAWAIIAN TELEPHONE CO.	GTHI	0.432	0.000	0.365	0.067
ROCHESTER TELEPHONE CORPORATION	RTNY	0.000	0.000	0.000	0.000

GRAND TOTALS ALL PAGES					
250.005	TOT	250.005			
119.809	CL		119.809		
91.711	SW			91.711	
38.486	SP				38.486

A4 12/29/87 FINAL RATE ADJUSTMENT FACTORS PAGE 1 OF 2

FINAL RATE ADJUSTMENT FACTORS

HOLDING/OPERATING COMPANY	COSA	REV REQ RAF TS-SW A	FINAL RAF SP B	DEMAND RAF TS-SW C	FINAL RAF TS-SW D = A X C	COSA
			BLANK = 1.0000		BLANK = 1.0000	
AVERAGE SCHEDULE COMPANIES	ASCD	1.0000		0.9600	0.9600	ASCD
ILLINOIS BELL	LBIL	1.0000		0.9349	0.9349	LBIL
INDIANA BELL	NBIN	0.9882	0.9904	1.0000	0.9882	NBIN
BELL ATLANTIC	BATR	0.9816	0.9795	0.9982	0.9798	BATR
1. CHESAPEAKE & POTOMAC	CPTC	1.0000		1.0000		CPTC
1.1 C & P (D.C.)	CDDC	1.0000		1.0000		CDDC
1.2 C & P of MARYLAND	CMMD	1.0000		1.0000		CMMD
1.3 C & P of VIRGINIA	CVVA	1.0000		1.0000		CVVA
1.4 C & P of WEST VIRGINIA	CWWV	1.0000		1.0000		CWWV
2. DIAMOND STATE TEL.	DSDE	1.0000		1.0000		DSDE
3. BELL OF PENNSYLVANIA	PAPA	1.0000		1.0000		PAPA
4. NEW JERSEY BELL	NJNJ	1.0000		1.0000		NJNJ
SOUTHERN BELL	SBTC	1.0000		1.0000		SBTC
	SBFL	0.9860	0.9848	0.9444	0.9312	SBFL
	SBGA	1.0000		0.9444	0.9444	SBGA
	SBNC	1.0000		0.9444	0.9444	SBNC
	SBSC	1.0000		0.9444	0.9444	SBSC
SOUTH CENTRAL BELL	SCTC	1.0000		1.0000		SCTC
	SCAL	1.0000		0.9480	0.9480	SCAL
	SCKY	1.0000		0.9480	0.9480	SCKY
	SCLA	1.0000		0.9480	0.9480	SCLA
	SCMS	1.0000		0.9480	0.9480	SCMS
	SCTN	1.0000		0.9480	0.9480	SCTN
NEW ENGLAND TELEPHONE	NETC	0.9980	0.9984	1.0000	0.9980	NETC
	NEME	1.0000		1.0000		NEME
	NEMA	1.0000		1.0000		NEMA
	NENH	1.0000		1.0000		NENH
	NERI	1.0000		1.0000		NERI
	NEVT	1.0000		1.0000		NEVT
PACIFIC BELL	PTCA	0.9632	0.9639	1.0000	0.9632	PTCA
NEVADA BELL	PTNV	0.9676	0.9664	1.0000	0.9676	PTNV
U.S. WEST	USTR	1.0000		1.0000		USTR
1. MOUNTAIN BELL	MSTC	0.9641	0.9640	1.0000	0.9641	MSTC
	MSAZ	1.0000		1.0000		MSAZ
	MSCO	1.0000		1.0000		MSCO
	MSID	1.0000		1.0000		MSID
	MSMT	1.0000		1.0000		MSMT
	MSNM	1.0000		1.0000		MSNM
	MSUT	1.0000		1.0000		MSUT
	MSWY	1.0000		1.0000		MSWY
2. NORTHWESTERN BELL	NWTC	0.9775	0.9773	0.9742	0.9523	NWTC
	NWIA	1.0000		1.0000		NWIA
	NWMN	1.0000		1.0000		NWMN
	NWNE	1.0000		1.0000		NWNE
	NWND	1.0000		1.0000		NWND
	NWSD	1.0000		1.0000		NWSD

FINAL RATE ADJUSTMENT FACTORS

HOLDING/OPERATING COMPANY	COSA	REV REQ RAF TS-SW A	FINAL RAF SP B	DEMAND RAF TS-SW C	FINAL R'F TS-SW D = A X C BLANK = 1.0000	COSA
			BLANK = 1.0000			
3. PACIFIC NORTHWEST BELL	PNTC	0.9689	0.9695	1.0000	0.9689	PNTC
CENTRAL TELEPHONE CO.	CETC	1.0000		1.0000		CETC
1. CENTRAL OF FLORIDA	CEFL	1.0000		1.0000		CEFL
2. CENTRAL OF NEVADA	CENV	1.0000		0.9535	0.9535	CENV
CINCINNATI BELL TELEPHONE	CBTC	0.9756	0.9751	1.0000	0.9756	CBTC
CONTINENTAL TELEPHONE CO.	COTC	1.0000		1.0000		COTC
1. CONTEL OF CALIFORNIA	COCA	0.9829	0.9818	1.0000	0.9829	COCA
2. CONTEL OF NEW YORK	CONY	0.9821	0.9802	1.0000	0.9821	CONY
3. CONTEL OF TEXAS	COTX	0.9864	0.9843	1.0000	0.9864	COTX
4. CONTEL OF VIRGINIA	COVA	0.9780	0.9760	1.0000	0.9780	COVA
GENERAL TELEPHONE OPERATING COs	GTTC	1.0000		1.0000		GTTC
1. GTE OF CALIFORNIA	GTCA	0.9936	0.9931	1.0000	0.9936	GTCA
2. GTE OF FLORIDA	GTFL	0.9339	0.9372	0.9652	0.9014	GTFL
3. GTE OF THE NORTHWEST	GTNW	1.0000		1.0000		GTNW
3.1 GTE ID & MT	GTNA	0.9369	0.9319	1.0000	0.9369	GTNA
	GTID	1.0000		1.0000		GTID
	GTMT	1.0000		1.0000		GTMT
3.2 GTE OR, WA & WSTN CA	GTNB	0.9596	0.9269	1.0000	0.9596	GTNB
	GTOR	1.0000		1.0000		GTOR
	GTWA	1.0000		1.0000		GTWA
	GNCA	1.0000		1.0000		GNCA
4. GTE OF THE SOUTH	GTSO	1.0000		1.0000		GTSO
	GTAL	0.9916	0.9920	1.0000	0.9916	GTAL
	GTGA	0.9929	0.9930	1.0000	0.9929	GTGA
	GTKY	0.9933	0.9930	1.0000	0.9933	GTKY
	GTNC	0.9945	0.9938	1.0000	0.9945	GTNC
	GTSC	0.9933	0.9934	1.0000	0.9933	GTSC
	GTTN	0.9918	0.9926	1.0000	0.9918	GTTN
4.1 GTE VA & WV	GTVV	0.9921	0.9922	1.0000	0.9921	GTVV
5. GTE OF THE SOUTHWEST	GTSW	0.9940	0.9936	1.0000	0.9940	GTSW
6. GTE MIDWEST OPERATIONS	GTMW	1.0000		1.0000		GTMW
	GTIL	0.9924	0.9920	1.0000	0.9924	GTIL
	GTIN	0.9733	0.9688	1.0000	0.9733	GTIN
	GTIA	0.9944	0.9944	1.0000	0.9944	GTIA
	GTMI	0.9426	0.9372	1.0000	0.9426	GTMI
	GTMN	0.9950	0.9944	1.0000	0.9950	GTMN
	GTMO	0.9946	0.9940	1.0000	0.9946	GTMO
	GTNE	0.9947	0.9943	1.0000	0.9947	GTNE
	GTOH	0.9923	0.9920	1.0000	0.9923	GTOH
	GTPA	0.9934	0.9923	1.0000	0.9934	GTPA
	GTWI	0.9936	0.9930	1.0000	0.9936	GTWI
7. HAWAIIAN TELEPHONE CO.	GTHI	0.9936	0.9927	0.8940	0.8885	GTHI
ROCHESTER TELEPHONE CORPORATION	RTNY	1.0000		0.9385	0.9385	RTNY

Appendix H

CARRIER COMMON LINE REVENUE REQUIREMENT ADJUSTMENTS

($ millions; MOU millions)

1. CCL Revenue Requirement	$ 5,568
2. Exchange Carrier Concessions	- 28
3. FCC Disallowances	- 150
	$ 5,390

Originating Premium	101,103 MOU
Originating Non-premium	2,291
Terminating Premium	124,745 MOU
Terminating Non-premium	5,659
Chargeable Terminating	127,292

Originating Premium CCL rate = $0.0/MOU
Terminating Premium CCL rate = $5,390/127,292 = $0.0423/MOU

0.8881 GTWI
0.9300 RTNY
0.8940 GTHI
0.9385 RTNY
0.9927
0.9936 GTHI
1.0000 RTNY
7. HAWAIIAN TELEPHONE CO.
ROCHESTER TELEPHONE CORPORATION

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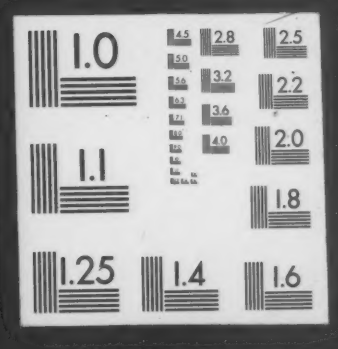
1.0
1.1
1.25
1.4
1.6
2.8
3.2
3.6
4.0
2.5
2.2
2.0
1.8